



**PLANNING COMMISSION REGULAR SESSION AGENDA**  
**Monday, February 14, 2022 - 7:00 PM**  
**City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365**

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This meeting will be held electronically. The public can livestream this meeting at <https://newportoregon.gov>. The meeting will also be broadcast on Charter Channel 190. Public comment may be made, via e-mail, up to four hours before the meeting start time at [publiccomment@newportoregon.gov](mailto:publiccomment@newportoregon.gov). The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

Anyone wishing to make real time public comment should submit a request to [publiccomment@newportoregon.gov](mailto:publiccomment@newportoregon.gov) at least four hours before the meeting start time, and a Zoom link will be e-mailed.

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**1. CALL TO ORDER AND ROLL CALL**

*Jim Patrick, Bill Branigan, Lee Hardy, Bob Berman, Jim Hanselman, Gary East, and Braulio Escobar.*

**2. APPROVAL OF MINUTES**

**2.A Approval of the Planning Commission Work Session Meeting Minutes of January 24, 2021.**

[Draft PC Work Session Minutes 01-24-2022](#)

**2.B Approval of the Planning Commission Regular Session Meeting Minutes of January 24, 2021.**

[Draft PC Reg Session Minutes 01-24-2022](#)

**3. CITIZENS/PUBLIC COMMENT**

*A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.*

#### **4. ACTION ITEMS**

- 4.A File No. 7-CUP-21: Final Order and Findings for Conditional Use Permit to Allow the Construction and Operation of an Animal Shelter Facility and Storage at the Subject Property That is Located in a P-1/“Public Structures” Zone.**  
[Final Order](#)  
[Findings of Facts](#)

#### **5. PUBLIC HEARINGS**

- 5.A File 1-NB-22: Design Review Modifications to The Whaler @ Nye Beach Hotel.**  
[Staff Report](#)  
[Attachment A - Application Form](#)  
[Attachment A1 - Applicant’s Revised Narrative](#)  
[Attachment A2 - Revised Building Plans and Elevation Drawings](#)  
[Attachment A3 - Revised Landscaping Plan for Expansion](#)  
[Attachment A4 - Landscaping Adjacent to Existing Whaler](#)  
[Attachment A5 - Site Plan for Whaler Expansion](#)  
[Attachment A6 - Overall Site Plan \(Includes Existing Whaler\)](#)  
[Attachment B - Final Order and Findings for File #1-NB-21/2-CUP-21](#)  
[Attachment C - Public Notice](#)  
[Attachment D - Email from Wendy Engler with Response](#)  
[Attachment E - Nye Beach Design Review Guidelines and Illustrations](#)

#### **6. NEW BUSINESS**

- 6.A Annual Statement of Economic Interest (SEI) Filing.**  
[SEI Filer Reminder](#)

#### **7. UNFINISHED BUSINESS**

#### **8. DIRECTOR COMMENTS**

## 9. ADJOURNMENT

**Draft MINUTES**  
**City of Newport Planning Commission**  
**Work Session**  
**Newport City Hall Council Chambers by Video Conference**  
**January 24, 2022**  
**6:00 p.m.**

**Planning Commissioners Present by Video Conference:** Jim Patrick, Bob Berman, Lee Hardy, Braulio Escobar, Jim Hanselman, Gary East, and Bill Branigan.

**PC Citizens Advisory Committee Members Present by Video Conference:** Dustin Capri, and Greg Sutton.

**City Staff Present by Video Conference:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:01 p.m.
2. **New Business.**
  - A. **Review Schedule, Outreach, & Incentives Program for SB Island Annexation Concept.** Tokos reviewed the map of properties that would be a part of the island annexation. He noted that they would be doing the annex by statutory code, not by ordinance. The Commission would also decide what the recommendation for zoning designations would be. Tokos reviewed the zoning he thought would work.

Berman asked if Mike Miller Park was a City park. Tokos explained it was a County park and it would continue as such. He reported that there would be a discussion about this with the County on February 2nd.

Berman asked if the conversation was to have some of the property be commercial instead of industrial. Tokos noted they could try to tackle this as a two-step approach with a Comprehensive Plan amendment after they dealt with the annexation piece. Branigan asked if the City was light on industrial properties. Tokos confirmed they were, but this would help the City to get additional industrial to the south.

Tokos reminded that because of the way the statute was drafted the residential piece had to have a deferred effective date of at least three years out. The discussion with the legislature was not to have people who were being annexed into cities on a compulsory manner to have to pay higher city taxes when they were on fixed incomes and couldn't afford it. Tokos gave an example of properties that were brought into Portland when the owners couldn't afford the higher city taxes. Unless this was waved when a property was sold, this piece would have its own clause with a deferred effective date. The thought was to have a meeting with the City Council in February to initiate the island annexation process and the rezoning. The City would work with the County on what owners would pay for property taxes. They would put together outreach materials to property owners to explain what was happening and give them some research information. Then there would be a window of time for rebates for property owners to connect into city services. This would only be for existing development, not future development. Berman asked if there would be any distinction between different sized parcels to get the same incentives. Tokos confirmed that was the idea. Property owners would have to

weigh what the costs would be to connect to services and if it was worth their time. Berman expressed his appreciation that this was being done and thought it would simplify the city limits.

Patrick asked if there were sewer connections down to this area. Tokos reported they went to 50th Street. Those properties past 50th Street would have to extend the lines up a little bit. Hanselman asked if these properties were a part of the City Fire Department. Tokos explained they were under the City Fire and the Newport Rural Fire districts. The fire services would stay the same. The Newport Police would be changed to service the area instead of the Sheriff's Department.

Escobar asked what the motivation was to annex the properties at that time. Tokos reported they had resources from the South Beach Urban Renewal District to do it, there was a limited window to use the funds. He noted that it made it easier for the City to provide infrastructure and services to these properties. It also made these properties more desirable for industrial development because developers could do a broader range of industrial development with the City than they could with the County.

Hanselman thought this would be a carrot on a string for these property owners. He asked if the City would annex properties when owners didn't want to. Tokos noted that with an island annexation process, the City could annex without the consent of the property owners and was different than a regular annexation. In cases where the City surrounded properties, which they had here, the City could annex without property owner's consent. Property owners could testify to the Commission and City Council that they didn't want it. It might not be the political will at the end of the day, but elected officials could still choose to proceed to annex without consent of the owners. Tokos pointed out that these property owners would not be encoring the cost of annexation, they would have the rebate offer to connect to the city waste system, and the City would be taking care of the residual bond debt from Seal Rock that these property owners were responsible for. The City had an agreement with Seal Rock to move their services area south of Henderson Creek. These property owners had bond debt that predated this agreement that they made them responsible for a proportional amount of the approximately \$37,000 that the City had to pay to Seal Rock when the annexation happened. Hanselman asked if the City was prepared to make a decision that they would need the backing for if property owners didn't want to take annexation. He asked if the City would be committed to using the bonds. Tokos noted they would never know until they had the hearings and made a decision. In this instance, the City Council agreed with it being something to pursue. Tokos reminded that this wasn't a commitment to vote one way or another, but it was a commitment to initiate the process and take it to a public hearing. He expected that the Commission and Council would want to hear public testimony and make the best decision once they hear this.

Tokos reported they needed to start the boundary survey because it would take a little time to put it together to get a legal description. A transportation planning rule analysis also needed to be done in a preliminary manner to see what the impact would be on the transportation system by giving it urban zoning. Outreach would be done to property owners as a part of this. If it was adopted it would happen in the fall and close out at the end of the year.

Patrick asked if they would be going with the existing zoning, other than changing the north commercial areas. Tokos thought they should tackle this separately when they looked at the rest of the properties that were already in the city so they could have a conversation on what they were doing holistically. He asked if the Commission was comfortable with the I-1, I-2 or I-3 zoning. He thought for purposes of doing a motion they could go with one "I" zone designation instead of all three, and then let the process play out and see how people responded. Berman asked if this would require a Comprehensive Plan designation. Tokos explained that any of the three zoning designations were already good in the area. Berman asked what would happen if someone wanted another zone

designation if the Commission decided on only one “I” zone. Tokos explained they could modify it as part of the process. He noted that the Commission could designate different areas have different “I” zone designations but thought they would want to start with the most simple designation first. Capri thought letting the property owners have input would be helpful. Patrick thought starting with the simplest thing would be best, then modify it when they got input. Escobar thought the proposal had merit because the more you required property owners to change, the more it would set the table for opposition.

**B. City Center Revitalization Project-TGM Grant Scope of Work Outline & Public Outreach Discussion.** Tokos reviewed his memorandum and noted there was a question on how to setup outreach for the project and who the target audience was. He thought a project advisory committee would focus on business owners and residents in the City Center area, but would also offer broader opportunity for other input. There was a lot of interest citywide to see the City Center revitalized.

Hardy asked if they were suggesting they push the development of housing in the City Center where there was no parking, which businesses were competing for anyway. Tokos didn’t know of parking issues in the City Center currently. As part of the grant application they were looking to get housing closer to services. Getting more residential over retail commercial was a target of this process. Hardy didn’t think it made sense. Berman disagreed and noted that if the Transportation System Plan ended up with a couplet it would open up a lot of options for accommodating this type of housing. Hanselman thought that if there was a decision to include a couplet in the TSP, it would be wise to make sure that those that didn’t want the couplet could help in moving the City Center project along and incorporate their ideas. He thought they needed as much community participate as they could get so the City Center improvements were embraced by more of what the population wanted. Tokos explained this showed the importance for setting up the process where they created opportunities for not just the immediate business owners, but also some points where there was broader public engagement and input. He noted that they had had conversations with people who were potentially looking to do residential in the City Center area. Different people were looking for different types of housing arrangements. Being approximate to services and transit where they could walk to get their immediate needs met without driving was essential and important to people. There was infrastructure in the City Center to support it and they would be making infrastructure investments down the road to make it even more attractive for more dense development in the area.

Berman asked where the money would come from to implement the plan. Tokos reported that most of the funding came from Urban Renewal funds. There would also be State monies for any major project that involved highway work. Branigan asked if the City Center was just US 101. Tokos noted it extended a couple of blocks from US 101, and also the US 20 side as well. He reported they were looking at adding more high density residential as they went away from US 20. This would be reasonably close to the high school and part of the discussion.

Tokos explained they needed to build a project advisory committee to align with the grant application. They would also be doing broader stakeholder outreach. Tokos noted that what he was hearing from the Commission was that as they were developing this, that the broader public would be woven in at the larger events and the project advisory committee would focus on key stakeholders in or around the City Center area. Capri asked how they could balance giving enough to these business owners so they could have a meaningful impact to the dollars available and make sure they gave the enough money to different businesses to give equity across the district. Tokos explained they would have to have discussions on this as they flushed out what the façade improvement program looked at. Capri thought that giving some level of input and some percentage in contribution for businesses would help. Tokos

agreed. He pointed out that there wouldn't be 100 percent funding through the program, and businesses would have to bring some money to the table as well.

Berman noted that most of the area on the revitalization map was shown in a grey color for the focus area. He asked what the coloring referenced. Tokos noted this was just the transparency color on the map and the areas in grey were all the C-1 zone. These areas already allowed residential over commercial. There was a framework for this already and they would be building on this as part of the process.

Tokos reported he would get back to David Helton and they would have until the February 18th to get the scope of work finalized. They would share it with a list of qualified consultants to ask them to put together proposals. The City could then review and score the proposals at that time. Berman asked that the public outreach not just include people directly impacted in the City Center community, but everyone in the Newport so they could get a broader idea on how to fix the City Center. Patrick agreed and thought it would be something like what they did in Nye Beach. Hardy thought that was a mistake. Tokos noted that they were trying to come up with a clear sense of where they were going in the area and a clear plan of attack that was resourced. Hardy expressed concerns that this would create another overbuilt tenement just like in Nye Beach.

**3. Unfinished Business.**

**A. Updated Planning Commission Work Program.** Tokos pointed out the changes to the work program since the last meeting. He noted there would be a public hearing added to the February 14th meeting for revisions to the Whaler Hotel design review.

**4. Adjourn.** The meeting adjourned at 6:52 p.m.

Respectfully submitted,

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Sherri Marineau,  
Executive Assistant

*Draft* MINUTES  
City of Newport Planning Commission  
Regular Session  
Newport City Hall Council Chambers  
January 24, 2022

**Planning Commissioners Present by Video Conference:** Jim Patrick , Bob Berman, Lee Hardy, Braulio Escobar, Jim Hanselman, Gary East, and Bill Branigan.

**City Staff Present by Video Conference:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

**Public Present by Video Conference:** Chris Keene, Dan McCrae, Curtis Landers, Erica Fruh, Emily Dehuff, and Jerry Herbage.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:01 p.m. On roll call, Commissioners Patrick, Branigan, Berman, Hanselman, Hardy, Escobar, and East were present.

2. **Approval of Minutes.**

Berman reported one minor correction to the minutes.

A. **Approval of the Planning Commission Regular Session Meeting Minutes of January 10, 2022.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Branigan to approve the Planning Commission Regular Session Meeting Minutes of January 10, 2022 with a minor correction. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **Recommendation to City Council on South Beach Commercial Corridor Island Annexation Concept.**

**MOTION** was made by Commissioner Berman, seconded by Commissioner Escobar to recommend the City Council initiate annexation of unincorporated properties in South Beach that are surrounded by the Newport city limits, with properties identified on the Newport Comprehensive Plan Map as "Industrial" being given an I-1/"Light Industrial" zoning designation, those identified as "Residential" being given an R-2/"medium-density, single-family residential" zoning designation, and "Public" property being given a P-2/"Public Parks" designation. The motion carried unanimously in a voice vote.

5. **Public Hearings.** At 7:03 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. None were heard. Patrick called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

**A. File 7-CUP-21.**

Tokos acknowledged the letter from the Airport Committee that had been distributed to the Commission and the applicant earlier that day. The Airport Committee voiced concerns about housing larger animals at the shelter and the impact animal noise would have on airport operations. Tokos asked that the applicant address these concerns during their testimony.

Tokos reviewed the map of the location of the new animal shelter and its juxtaposition to the airport runways. He reported the area the shelter would be placed at was outside of the airport operations use, and noted that an animal shelter could be operated at this location through a conditional use process.

Tokos reviewed the criteria for an approval. He noted that the comments received from adjacent property owners were about concerns over the noise increase from the shelter. Tokos reported that the County would be soundproofing the building, which they thought should mitigate the noise. He pointed out that there was outside areas for animals that had vegetation that would provide a buffer for the noise as well. Tokos then reviewed the conditions of approval.

Berman asked where the septic system would be developed and how it would work. Tokos pointed out the location of the septic area on the map on Attachment “H”. There had been discussions with the FAA and it was determined that the soil conditions showed it was a good area for the septic system they were looking to install. The shelter would have to pump their effluent up to the system due to the terrain. It would also have to be treated through a settling tank because there would be animal waste. The area the septic system was to be placed in would encompass 13 acres. Berman asked who would operate the system. Tokos explained it would be a shared system that the City would be operating and maintaining. There would be a cost contribution by anyone that connected into the system.

Branigan asked what usage Runway #2-20 was and what its visual approach was. He was concerned that low flying aircraft could cause excessive barking by dogs at the shelter. Tokos suggested asking the applicant to respond to this.

**Proponents:** Chris Keene, with Dangermond and Keene Architects, addressed the Commission. He explained that he was the architect representing the County on the project. Keene reviewed the process they took to work with shelter staff and stakeholders such as the Humane Society and FOLCAS to come up with the plans for the build. The first phase of the project would be for a shelter that was around 9,000 square feet with space for 24 dogs and 59 cats. They are working with a shelter planner who had done dozens of similar facilities across the country. Keene explained the thought was that the Sherriff’s Department would be able to bring in animals to the shelter and there would be a place to quarantine them. They were taking great care to address animal care and animal waste management. Waste would be directed to a settling tank before it went to the septic system. The shelter would have three private offices and two primary entrance points for the public. One would be for adoption and the other would be for surrendering animals.

The vast majority of the facility would be for the keeping of animals. Keene reported that they were looking at using the building as a weather break for the animals. The County also included 10,000 square feet of storage that would be built in the second phase. Keene explained that they didn't have a fully developed design for the facility at that time. The plans that were presented were close to what they would end up with, but there would be some minor changes. Keene reported that the building height wouldn't change and they would be using materials that were low glare and suitable with the marine environment. The dog walking area would be for staff to walk dogs in the daytime only. Keene acknowledged that he had read the Airport Committee letter. He explained that though there was an opportunity for large animals to be onsite, the facility was intended for small animals. Large animals would only be there in emergencies and on a temporary basis.

Hanselman asked if the retention ponds were calculated on the entire build out. Keene confirmed they were. Hanselman asked how deep they would be and if they would be fenced off. Keene noted the calculations for the retention ponds were based on the full development of both phases. They were for around 3,000 feet of stormwater buildup. The intention wasn't to create a big pond feature. Keene didn't have the depth for them, but didn't see there needing to be a rail around them. They would generally be treated as a bio swale. Hanselman thought these could produce an unexpected consequence and liability. He was asking so he had an understanding of the safety involved with retention ponds.

Branigan asked if the septic system would be a more modern system to break down effluents or if it would need to be pumped. Keene thought there would be some combination of pumping and pretreatment that would work with the larger system. The building needed a settling tank to keep the animal hair from going into the system. It was too early to say what the design of the system would be, but they were aware of this and are working with the consulting team on it.

Berman asked about the landscape plan and what percentage of the trees abutting the highway would be cut down. He didn't think trees should be cut down and should be kept as a buffer. Keene noted the first phase would stay out of the trees, except for the walking path area. When they built the storage building they would be trying to remove as little trees as possible to meet their needs.

**Opponent:** Dan McCrae addressed the Commission and voiced his concerns about the noise. He reported he recently built a hangar at the airport and was familiar with the runway. McCrae thought having large animals at the shelter for a short period wasn't safe. The helicopters went over the top of the shelter location and they would rattle the building. McCrae felt that large animals would have a problem with this. He also thought this would affect the safety of pilots. McCrae pointed out that it was common to build industrial sites at airports but not at the end of runways. He reported that it was common for airplanes to overshoot runways which was concerning because the shelter would align with the end of the runway. McCrae had concerns for the safety of the people who would work at the shelter because of this. He didn't think the shelter was a good idea at this location. McCrae also noted that large animals had different feed requirements that would draw birds to the area, which was also a concern for aircrafts.

Hanselman asked if McCrae had concerns about the elk in the area. McCrae didn't see elk at the area but noted that they ran away pretty quick when spooked. He thought the elk were desensitized to airports over time.

Berman addressed the concern about aircraft coming into contact with the shelter building. He noted that the end of the runway was very close to where the runways crossed and there was a substantial distance on what the site plan showed. He asked if the runway was used in emergency situations. McCrae confirmed it was used a lot. Tokos shared an aerial site plan image of the runway approach. He explained the FAA looked at this for the Airport Master Plan and felt it was are enough away from the runway to be appropriate for the non-aviation related development.

**Opponent:** Emily Dehuff addressed the Commission. She noted the shelter was at the end of the runway and questioned what direction aircrafts took off from the runways. She was concerned about the runway being directed at the shelter. Dehuff suggested they should reroute air traffic to not be directed at the shelter.

Dehuff noted that she heard early in the process was that there would be no monthly costs for the County to lease the area but then the report showed the lease agreement had a substantial monthly payment for use of property. She asked how that change came about. Tokos explained that this discussion wasn't a matter for the Commission. The City Council never said there wouldn't be a cost to the County for the lease, but there had been a discussion about selling the property. A licensed appraiser was hired to come up with an appropriate rate lease and this was how they landed on the figure, based on the appraiser's recommendation. Tokos explained that they hadn't concluded the discussion and there would be a lease agreement discussion with the Council.

**Proponent:** Jerry Herbage addressed to the Commission. He explained that he was the Assistant County Counsel for Lincoln County. Herbage pointed out that in all the years he had been doing land use work, this was one of the most professional approaches he had seen for a condition use application. The County spent a lot of money working with the architect and team, and a lot of the work and consideration went into the project. From their standpoint they agreed with the staff report to give approval. This area was for non-aeronautical use and was important for the shelter. The County was prepared to take care of its responsibility for the lease and all other aspects. They appreciated the cooperation with City staff. Herbage noted that large animals might be something to think about but it wasn't the main purpose of the application. Their thoughts on large animals was to only have them at the location in the event of an emergency. If this was a problem they could find other places for large animals. Herbage noted that the Sherriff put effort into this and thought he should speak about housing large animals at the shelter. The thought was to have them located there if there was a major tsunami event or a fire.

Sherriff Curtis Landers address the Commission. He noted that large animals were put in their plan for extreme situations. He gave an example that was when they had to move a lot of large animals to a shelter as a staging area during wildfires. They wanted to make sure there was a possibility for large animals to be at this shelter but thought it would be extremely rare. Landers reported that their staff was well trained with large animals and reminded the shelter was really for small animals most of the time. Dehuff noted that she had confidence in their expertise and glad to see it was moving forward.

**Rebuttal:** Keene echoed what Herbage stated and noted there was a good team working together. They were early in the process and they had a pretty collaborative team. Keene reminded that large animals weren't the main purpose for the shelter, and if it was a concern they could work with the city to address it in other ways.

Chair Patrick closed the hearing at 8:17 p.m and the Commission entered deliberations.

East thought it was a great idea and thought there were valid points on the safety for emergency situations. He wanted to hear from other pilots about airport safety. Other than that, he thought the facility was needed and thought they should go forward with more public input.

Escobar lost the connection for his video conference link and left the meeting at 8:18 p.m. without being able to participate in deliberations and the vote.

Berman recognized it was a needed facility He was concerned about large animals and thought they should add another condition of approval to say they wouldn't allow large animals onsite except for in a major emergency. Berman noted the runway bothered him but if the FAA said it was okay he was okay with it.

Hanselman noted that he had been against the location of the shelter since the beginning. He thought airport situations were very stressful for any animal in the vicinity because noises were disruptive to all animals. Hanselman wanted to call attention to the decision makers who allowed this at the airport, which he thought was a poor choice. He supported animal shelters in general because they were needed. Hanselman thought that if this was the only location to place the shelter he would be for it.

Branigan didn't see any issues. He noted that fireworks spooked animals more than airplanes. Branigan pointed out that the airport's runways were too short for jets currently. He noted that large animal handlers would rather bring horses to properties in Logsdon instead of the city, and didn't see the large animals being an issue. Branigan felt that if the pilots followed the rules there wouldn't be too many crashes. Overall he was for it and thought the issues could be easily ameliorated.

Hardy didn't think this was the best location to put animals. As long as they had animals outside it would be stressful to them. Hardy felt there was a lot of other rural properties the shelter could be located at. She was uncomfortable putting animals at this location and thought they should look for a better location.

Patrick was in favor of adding Berman's condition to the approval. He didn't see the noise being a problem. Patrick noted that he hadn't realized this was a taxiway and not an air runway. He pointed out that the top of the roof for the shelter would be around 20 feet underneath the runway. Patrick thought it might not be the greatest location, but since the FAA didn't have a problem with it he was in favor of it.

Patrick indicated to entertain a motion.

**MOTION** was made by Commissioner Branigan, seconded by Commissioner Berman to approve File 7-CUP-21 with the presented conditions and an additional condition to say that large animals will not be moved to the facility unless the government declared an emergency. The motion carried in a voice vote. Five in favor, one opposed. Commissioners Patrick, Branigan, Berman, Hanselman, and East voted in favor. Commissioner Hardy voted in opposition.

Tokos reported that he would bring the final order to the next meeting and it would include the update to the findings with the additional condition.

6. **New Business.** None were heard.

7. **Unfinished Business.** None were heard.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:30 p.m.

Respectfully submitted,

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Sherrri Marineau  
Executive Assistant

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF NEWPORT,  
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION )  
FILE #7-CUP-21, A CONDITIONAL USE PERMIT ) **FINAL**  
APPLICATION BY LINCOLN COUNTY (CHRIS ) **ORDER**  
KEANE, DANGERMOND AND KEANE ARCHITECTS, )  
REPRESENTATIVE, CITY OF NEWPORT, OWNER) )**

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**ORDER APPROVING A CONDITIONAL USE PERMIT**, to allow the construction and operation of a 12,000 +/- square foot animal shelter and 10,000+/- square feet of storage located on land designated for non-aeronautical use at the Newport Municipal Airport. The subject site is 5-acres in size and is situated south of Runway 2-20 and U.S. Coast Guard Station on property identified by the Lincoln County Assessor as Tax Lot 200, on Tax Map 11-11-32-00.

**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on January 24, 2022; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested conditional use permit with the following condition(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Livestock and other large animals that cannot be boarded entirely within the Animal Shelter building, shall not be located on the premises for more than a 24-hour period unless a state of emergency has been declared by federal, state or local authorities.
3. Applicant shall be responsible for constructing water and wastewater service to the proposed lease area as necessary to support the animal shelter facility. This may include improvements that will be shared by, or benefit other users, in which case applicant's share of the costs is to be limited to that which is roughly proportional to the impact of their project.

4. Storm drainage attributed to the animal shelter, storage, and associated impervious and semi-pervious surfaces shall be managed on-site, with such improvements having the capacity to handle the volume and velocity of run-off attributed to a 25-year, 24-hour storm event. On-site drainage basins or other water impoundments may not exceed a quarter acre in size. All drainage improvements are to be complete and operable prior to occupancy of facility.
5. Applicant shall be responsible for widening the driveway to the facility to a width of 22-feet from its junction with the main airport access road to the new road approach that will serve the animal shelter facility. The design of such improvements is subject to review and approval by the City Engineer, and the improvements are to be completed prior to occupancy of the facility.
6. A landscape plan shall be included with the building permit submittal that identifies the location, species and anticipated peak height of all trees that are to be planted. In preparing the plan, emphasis should be given to tree species that will not exceed 50-feet in height at maturity.
7. Outdoor lighting fixtures are to be downward directed and shielded. Specifications for the fixtures are to be included with the building permit application.
8. Glare producing material, including but not limited to unpainted metal or reflective glass shall not be utilized on exterior surfaces of the proposed structures. Treatment of any exterior metal surfaces shall be called out on the elevation drawings included with the building permit submittal, along with the reflectivity rating of exterior windows.
9. Consistent with NMC 14.52.140, building permits for the 9,000+/- square foot initial phase of the animal shelter project shall be obtained within 18-months of the date this land use decision is final. Building permits for the 6,000 and 4,000 +/- square foot storage buildings and the 3,000+/- square foot, second phase of the animal shelter facility are to be obtained within 5-years of the date this land use decision is final.
10. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

**BASED UPON THE ABOVE**, the Planning Commission determines that this request for a Conditional Use Permit is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 14<sup>th</sup> day of February, 2022.

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James Patrick, Chair  
Newport Planning Commission

Attest:

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Derrick I. Tokos, AICP  
Community Development Director

## **EXHIBIT "A"**

Case File No. 7-CUP-21

### **FINDINGS OF FACT**

1. The applicant Lincoln County, by and through its representative Chris Keane, Dangermond and Keane Architects, applied on December 22, 2021, for approval of a Conditional Use Permit to allow the construction and operation of a 12,000 +/- square foot animal shelter and 10,000+/- square feet of storage located on land designated for non-aeronautical use at the Newport Municipal Airport.

2. The subject site is 5-acres in size and is situated south of Runway 2-20 and U.S. Coast Guard Station on property identified by the Lincoln County Assessor as Tax Lot 200, on Tax Map 11-11-32-00. A map graphically depicting the 5-acres is included in the record as Attachment "D," and a text legal description of the same area is included as Attachment "E."

3. Staff reports the following facts in connection with the application:

- a. Plan Designation: Public.
- b. Zone Designation: P-1/"Public Structures" subject to the City of Newport's Airport Development Zone Overlay.
- c. Surrounding Land Uses: Low density, single-family home sites to the west and south, airplane hangars to the east, and the U.S. Coast Guard Station (helipad) and additional airplane hangars to the north.
- d. Topography and Vegetation: The property is situated on a bench that is roughly 35-feet below the elevation of the airplane hangars and taxiway to the northeast (Attachment "Q"). An aerial image and contour map included in the record (Attachment "N") shows that the site slopes gradually from the northeast to the southwest, with steeper terrain along the far west and south ends of the proposed lease area. It further illustrates that the east half of the site has been cleared and maintained as a mowed open area, with the balance of property being vegetated with trees and shrubbery.
- e. Existing Structures: None.
- f. Utilities: All are available to the site. While the property is large enough to accommodate an individual septic system, the intent is for the development to utilize a larger shared system that is to be built in between the runways, which the applicant would pump effluent to for treatment. Water service will be provided by the Seal Rock Water District.
- g. Development Constraints: None known.
- h. Past Land Use Actions: None related to this 5-acre site.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the request on January 3, 2022, to affected property owners required to receive such notice by the Newport Municipal Code (NMC), and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on January 14, 2022. One comment was received in response to the notice. It was an email from Jim and Karen Otta, dated 1/7/22 (Attachment "O") and is more specifically addressed in the findings below.

5. A public hearing was held on January 24, 2022. At the hearing, the Planning Commission received the staff report, provided the applicant an opportunity to make a presentation and opened the floor to testimony in favor or opposition to the request. The minutes of the January 24, 2022 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – City of Newport – Lincoln County MOU, Jan. 2021
- Attachment "D" – Draft Lease Area, by Lincoln County Surveyor's Office
- Attachment "E" – Lease Area Legal Description, dated 10/22/21
- Attachment "F" – Application Narrative
- Attachment "G" – Animal Waste Mgmt Memo, Bill Daggett, dated 12/20/21
- Attachment "H" – Site Plan/Elevation Drawings, by DKa, dated 12/21/21
- Attachment "I" – Floorplan, by DKa, dated 11/8/21
- Attachment "J" – Daily Water Usage Estimate w/ Cover, dated 1/7/22
- Attachment "K" – Wastewater Solution, US 101 Refinement Plan, Fall 2021
- Attachment "L" – Public Notice
- Attachment "M" – 2018 Airport Master Plan On-Airport Land Use Map
- Attachment "N" – 2018 Aerial Image with Wetlands and Topography
- Attachment "O" – Email from Jim and Karen Otta, dated 1/7/22
- Attachment "P" – Email from Adam Denlinger, SRWD, dated 1/19/22
- Attachment "Q" – Airport Master Plan Runway 2-20 Approach Surface Maps

6. After the staff report was prepared, but prior to the public hearing, the City received a letter, dated January 24, 2022, from Lance Vanderbeck, Airport Director, on behalf of the City of Newport Airport Committee. The letter indicates that the Airport Committee is looking forward to the animal shelter project moving forward, but conveys a concern about large animals being cared for at this location. Specifically, the Committee points out that large animals could be frightened by aircraft noise, which could result in them panicking and breaking through the fence that defines the perimeter of the Airport Operations Area. They note that if this were to occur, it would put pilots and animals in danger and request that the applicant address the issue. The letter was distributed to the Planning Commission members and applicant prior to the hearing, and it was formally entered into the record by staff at the beginning of the meeting.

7. This public hearing before the Newport Planning Commission was conducted by video-conference. The Chair of the Commission, Jim Patrick, read a statement of rights and relevance. He asked Commissioners to declare conflicts of interest, ex parte contacts, bias or site visits. No declarations were made by the members. Chair Patrick called for objections to any member of the Planning Commission or the commission as a whole hearing this matter, and no objections were heard.

8. In addition to the Planning Commission, the following individuals participated in the hearing:

- Derrick Tokos, Community Development Director, as City of Newport staff.
- Chris Keene, Dangermond and Keene Architects, as applicant's representative
- Jerry Herbage, Lincoln County Counsel, for the applicant
- Lincoln County Sherriff Curtis Landers, for the applicant
- Dan McCrae, airport hangar owner, in opposition to the application
- Emily Dehuff, Friends of Lincoln County Animals (FOLCAS), in opposition to the application. Ms. Dehuff listed FOLCAS in her videoconference title but did not indicate that she was participating in an official capacity for the organization.

9. **Explanation of the Request:** Lincoln County has applied for a conditional use permit to construct an animal shelter and storage on property at the Newport Municipal Airport (Attachment "A"). The subject property is part of a larger parcel that is owned by the City of Newport (Attachment "B"). Lincoln County has entered into a Memorandum of Understanding (MOU) with the City of Newport to lease 5-acres of undeveloped property at the southwest corner of the Airport for the animal shelter project (Attachment "C"). The document notes that a conditional use permit is required and that the County is responsible for obtaining the permit. The MOU serves as evidence that the City has authorized the County to submit the application, consistent with NMC 14.52.050. While a draft boundary for the lease area has been developed (Attachments "D" and "E"), a formal lease agreement between Lincoln County and the City of Newport has not been executed.

The property is located within a P-1/"Public Structures" zone district, which would normally allow an animal shelter and storage activities by a public entity as an outright permitted use (NMC 14.03.100(4)). However, this particular parcel is situated within an Airport Development Zone Overlay that encompasses city-owned property in and around the Newport Municipal Airport. That overlay limits non-aviation related public uses, such as the animal shelter, to areas specifically designated for non-aviation related activities, and subjects them to conditional use approval (NMC 14.22.100(E)(5)).

The applicant has prepared a site plan and exterior elevations for the proposed animal shelter and storage uses (Attachment "H"). They have also provided a floorplan for the shelter illustrating how the interior space will be allocated for various uses (Attachment "I"). An existing, 16-foot wide paved driveway provides access to the site. The applicant intends to widen this driveway to 22-feet in width from the east end of the proposed lease area to the point where the driveway intersects with the Newport Municipal Airport's main access road.

Initially, the applicant intends to construct a 9,000 +/- square foot animal shelter facility that can be later expanded to 12,000 +/- square feet. The footprint for the initial phase and future phases is illustrated on the site plan. Two storage buildings are to be constructed, one being 4,000 square feet in size and the other 6,000 square feet in size. The locations of these structures are also depicted on the applicant's site plan.

With their narrative (Attachment "F") the applicant provides a business plan, which states:

The animal shelter facility will be focused on the care and sheltering of dogs, cats, and a small number of other small animals such as rabbits, as well as space for larger animals in an emergency on a temporary basis. The bulk of the animal care facility square footage is dedicated to the housing of animals in kennels and/or support spaces for caring for those animals. The facility will provide kennel space for 24 dogs and 59 cats and provide the following program/functions:

- Public reception and sales of initial, basic pet care needs for adopted animals.
- Administrative areas including three (3) private offices for staff. Staff and volunteer training provisions including an approximately 750 square foot multi-function meeting/training room.
- A sally port to aid in safety of animal intake.
- Animal receiving, including examination, and grooming functions.
- Animal kennels for adoption and strays.
- Animal kennels for quarantine and routine observation.
- Clinic space(s) for shelter animal care and emergencies.
- Outdoor exercise areas for dogs including a short walking path.

Though not budgeted at this time, a future phase of construction may include:

- Spay/neuter services

The shelter will be staffed 7 days a week with paid staff and volunteers depending on the day and need. The facility will include three (3) private offices and a reception desk for staff. A volunteers' room will be provided as will a staff break room. In addition to shelter staff and volunteers, the facility will be used by the Lincoln County Animal Services deputies and other law enforcement personnel. They will have 24/7 access to the facility through a separate and secure sally port. Presently, the facility is open to the public from 12 - 4 Wednesday – Saturday but this will likely increase with the new facility depending on staff and volunteer availability. Public use of the facility will primarily be for surrendering animals or meeting animals for possible adoption.

10. **Conditional Use Review Required (NMC Chapter 14.22.100(E))**: Per NMC 14.22.110(E), Conditional Uses, the following conditional uses replace the permitted uses identified in the underlying zone district.

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5. Non-aviation related residential, commercial, industrial or public uses in areas designated for non-aeronautical use on the "On-Airport land Use" map identified

as Sheet 15.2 of the Newport Municipal Airport Master Plan, prepared by WHPacific (dated February 2018).

A copy of that map, enclosed as Attachment "M," shows that the animal shelter site is located on airport property designated for non-aeronautical use and is; therefore, permissible subject to conditional use review.

**11. Conditional Use Approval Authority (NMC 14.34.030):** Per NMC 14.34.030(A), Approval Authority, an application for approval of a Conditional Use shall be processed and authorized using a Type II decision making procedure where specifically identified as Newport Municipal Code eligible for Type II review elsewhere in this Code or when characterized by the following:

1. The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and
2. Involves a piece(s) of property that is less than one (1) acre in size. For an application involving a condominium unit, the determination of the size of the property is based on the condominium common property and not the individual unit.

NMC 14.34.030(B) stipulates that all other applications for Conditional Uses shall be processed and authorized as a Type III decision-making procedure. The City of Newport's Type III decision-making procedure is outlined in NMC 14.52.020(C), and designates the Planning Commission as the decision-making authority after notice and a public hearing. Notice must be provided by mail at least 20-days in advance of the hearing to all record owners of property within 200-feet of the subject parcel (NMC 14.52.060(C)). Notice of the hearing must also be published at least once in a newspaper of general circulation at least 5-days and no more than 20-days prior to the date set for the public hearing (NMC 14.52.060(F)).

The subject property is 5-acres in size as depicted on the preliminary drawing prepared by the Lincoln County Surveyor's Office (Attachment "D"); therefore, Planning Commission review and approval is required per NMC 14.34.030(B). Evidence of public notice, included as Attachment "L," demonstrates that the January 24, 2022 public hearing has been duly noticed consistent with the requirements of NMC 14.52.060.

**12. Approval Criteria:** The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

## CONCLUSIONS

Regarding the approval criteria for this conditional use request, the following conclusions can be made:

A. Criterion #1. *The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. The applicant notes that while all of the aforementioned public facilities are available and serve the property, improvements or extensions will be needed to make the services directly available to the property.

2. Regarding the individual public facilities, the applicant points out that sanitary sewer will be provided by the City of Newport through a community sewer system which is in the planning stage. It will be a large septic system that the City is looking to place in between the two runways, situated northeast of the subject property. The septic system is being sized to accommodate anticipated buildout over the next 20-years, and is further described as Project "C" of the recently completed South Beach / US 101 Refinement Plan (Attachment "K"). As noted by the applicant, the animal shelter facility will tie into the system via a pump station, service lateral(s) and related connections. There are presently four separate septic systems on airport property, serving the Fixed Base Operator (FBO) building, FedEx building, U.S. Coast Guard building, and the Airport Rescue and Firefighting (ARFF) building. The new large septic system will allow for the systems to be consolidated, except for the ARFF system on the far north end of the airport property. The fact that there are already septic systems at the airport is evidence that soil conditions are such that it is feasible that a large shared septic system can be built to meet the needs of the animal shelter and other area users.

3. In their narrative, the applicant points out that the subject property lies within the Seal Rock Water District which they indicate has adequate capacity to serve the animal shelter. Upon request by the Seal Rock Water District (SRWD) the applicant prepared a memo outlining anticipated maximum daily water demand (Attachment "J"). The information was reviewed by Adam Denlinger, SWRD General Manager, who confirmed in a January 19, 2022 email that the district can meet the anticipated demand (Attachment "P"). At this time, the City anticipates that water service will be provided via an existing 8-inch HDPE line that parallels the access road as illustrated on an aerial image of the property (Attachment "N").

4. The applicant notes that the 5-acre site possesses uncontrolled access from a shared airport drive off of SE 84th Street, which is a turnoff from US 101. This airport drive has a paved asphalt surface that can accommodate one lane of traffic in each direction. The County desires to extend the road width from 16-feet to 22-feet to better serve emergency vehicles such as fire trucks. The applicant's site plan illustrates that the parking needs of the facility will be met with paved, off-street spaces in close proximity to the planned improvements (Attachment "H"). Considering

this, it is unlikely that on-street parking will be needed or that it would even be attractive. The City of Newport Fire and Public Works Departments operate vehicles with a wheel base in excess of 10-feet in width. This could make it challenging for them to access the facility if faced with oncoming traffic, as the existing drive is at best 16-feet wide (narrower in some areas). The applicant's proposal to widen the drive to 22-feet will ensure that the paved area is wide enough for Fire Department and Public Works vehicles to pass oncoming traffic.

5. The applicant intends to manage runoff through the use of on-site stormwater basins. They note that a 6% sizing factor for a stormwater basin (sloped vegetated sides) would be sufficient to meet water quality requirements as well as matching pre-developed runoff conditions (not increasing runoff leaving the site compared to current conditions). Based on the total square footage of 51,250 square feet of impervious surfaces (Attachment "H"), the applicant believes that 3,075 sf of stormwater basin should suffice, and they understand that the final arrangement and design of these stormwater basin (rain garden) will need to be submitted as part of the building permit submission.

6. Policy 1, Goal 2, Storm Drainage, Public Facilities Element of the Newport Comprehensive Plan requires that drainage analysis for development with new impervious surfaces demonstrate that run-off can be managed on-site or that the downstream conveyance system has capacity for the volume and velocity of stormwater attributed to a 25-year, 24-hr storm. The applicant is proposing to develop just under 1.2 acres of the 5-acre property. The site gradually drops in elevation to the west and south towards drainages adjacent to US 101. This leaves an ample amount of land area where drainage basins can be built to manage runoff for the design storm. It is relevant to note that the subject property is within the visual approach surface of Runway 2-20, where individual surface water impoundments cannot exceed a quarter-acre in size (ref: NMC 14.22.080(E)). This shouldn't be an issue as the amount of water that will need to be impounded is relatively modest and there is a large amount of land available to the applicant to construct drainage facilities in conformance with this requirement.

7. Central Lincoln PUD provides electrical service, and power has been extended along the access drive such that it is proximate to the proposed development (ref: electrical pull box, Sheet CU-1, Attachment "H"). The applicant notes that they are responsible for ensuring that the property is properly hooked up to the electrical lines.

8. The applicant points out that Bill Daggett from Shelterplanners.com is serving on the shelter design team, and that Bill has served as a consultant and architect for dozens of animal shelters across the country. His expertise will be critical in designing a facility that is clean and safe for staff, visitors, and the animals themselves. Though the systems have not been designed yet, great care will go into designing a facility that is easy to keep clean and that handles animal waste appropriately. For example, the applicant notes that all animal waste that is introduced into the building's sanitary system will first enter a settling tank that includes a particle filter (and clog alarm) sufficient to prevent the passage of animal hair into the system beyond the settling tank. Included with the application is a memo outlining steps that will be taken in the design and maintenance of the facility to manage animal waste and ensure a safe and clean facility (Attachment "G").

9. Given the above, the Planning Commission concludes that the public facilities can adequately accommodate the animal shelter and storage uses.

B. Criterion #2. *The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses requirements of the underlying or overlay zone. The applicant notes that the subject property is zoned P-1/ "Public Structures" by the City of Newport. The intent of the zone is to provide for various public uses such as parks, open spaces, community buildings, senior centers, airports, recreation facilities, libraries, police stations and fire stations. To that end, NMC 14.03.100(4) lists "any building or structure erected by a government entity" as an outright use. This application for an animal shelter and storage units by Lincoln County falls within that category of an outright use.

2. Notwithstanding the above, the applicant appropriately notes that the subject property is also in the Airport Restricted Area and Airport Development Zone Overlay (14.22 of the Newport Municipal Code.) The purpose of the Airport Restricted Area and Airport Development Zone Overlay is to encourage and support the continued operation and vitality of the Newport Municipal Airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near the airport (ref: NMC 14.22.010).

3. Within the Airport Restricted Area there are various provisions requiring compliance with specified standards. NMC Section 14.22.060 is one such provision and it is entitled "Height Limitations on Allowed Uses in Underlying Zones." It states: "All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of the Airport Restricted Area Zoning Overlay, the underlying zone height limitations shall control.

A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.

B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, the City of Newport may authorize structures up to 35 feet in height."

The term "Airport Imaginary Surfaces" is defined under NMC 14.22.020 as including runway approach surfaces. The City of Newport's 2018 Airport Master Plan includes a map showing that the subject property falls within the runway approach surface for Runway 2-20 (Attachment "Q"). This is a visual approach surface for aircraft and the second sheet of Attachment "Q" includes a profile drawing illustrating that the approach surface at the driveway access to the proposed lease area is over 45 feet above finished grade. The applicant's exterior elevation drawings show that the animal shelter building will be just under 30-feet in height and the storage buildings will be approximately 25-feet in height, so neither will penetrate the approach surface. Based on this evidence, the Commission finds that the height limitation of NMC 14.22.060 has been satisfied.

4. The applicant indicates that they are prepared to submit a landscape plan with the building permit submittal that identifies the location, species and anticipated peak height of all trees that are to be planted. This is appropriate considering the location of the proposed lease area relative to the visual approach surface.

5. In their narrative, the applicant notes that NMC 14.22.080 calls for outdoor lighting to be directed away from runways and approach surfaces, and that it not in any way to imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting. The applicant indicates that lighting on the subject property will be muted, downward facing, and shielded; and it will not project light directly onto an existing runway or taxiway or onto existing airport approach surfaces.

6. In addition to outdoor lighting, the applicant points out that the provisions of NMC 14.22.080 prohibit use of glare producing material, including but not limited to unpainted metal or reflective glass, on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision. The applicant indicates that they are prepared to adhere to this requirement.

7. The applicant points out that NMC 14.22.100(F) requires that they "demonstrate that the uses will not create a safety hazard or otherwise limit existing and/or approved airport uses." They point out that this standard is satisfied given that the structures are single-story, and not over 35 feet in height. They further note that the proposed lease area is topographically isolated from the aeronautical uses at the airport, sitting roughly 13-feet below the runway/taxiway surfaces and roughly 350 feet from the closest taxiway.

8. The City of Newport Airport Committee, via a January 24, 2022 letter from Airport Director Lance Vanderbeck, expressed a concern that large animals boarded at this location could create a safety hazard because they might be spooked by aircraft noise and break through the perimeter fence surrounding the airport operations area. Dan McCrae, a pilot who owns a hangar at the airport echoed this concern. The applicant indicated that the Animal Shelter is not intended to be used to board large animals, but that there may be a need in the event of an emergency. Should a state of emergency be declared, then additional resources would be brought to bear by federal state and/or local authorities to address the issue, and the associated planning and logistical efforts might leverage, or at least would take into consideration, airport operations given the location of the shelter. The Commission concurs with the Airport Committee and Mr. McCrae that boarding large animals at this location on an ongoing basis could create a safety hazard, but for the reasons noted, that safety risk is mitigated in cases where a state of emergency has been declared.

9. Mr. McCrae further expressed a concern that the shelter project is an inherent risk to those that will work there, and the animals that will be boarded, because it is located within the Runway 2-20 visual approach surface and would; therefore, be at risk of harm from a plane or helicopter crash. Mr. McCrae relied upon his experience as a pilot to support his concern. Emily Dehuff also expressed reservations about the animal shelter being within the Runway 2-20 visual approach surface. The Airport Committee represents pilots and other interests at the airport. They conveyed support for the animal shelter project moving forward, and only conveyed a concern

about the boarding of large animals. Evidence in the record demonstrates that the area where the animal shelter is to be built is designated for non-aviation development in the 2018 Airport Master Plan, and that the Airport Development Zone Overlay allows a range of non-aviation uses that if constructed would result in people being within the runway visual approach surface. The 2018 Airport Master Plan was developed with input from a broad range of airport stakeholders, including pilots, and was ultimately approved by the Federal Aviation Administration. The Commission expects that had the area where the animal shelter is now proposed been viewed as an inherent safety risk to new development then it would not have been designated as being appropriate for non-aviation related uses, or the list of permissible uses would have been significantly paired back. Given that is not the case, the Commission is satisfied that placement of the animal shelter in this location does not in of itself constitute a safety hazard.

10. Given the above, the Planning Commissions concludes that this application for an animal shelter and storage uses complies with the requirements of the underlying zone or overlay zone.

C. *Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.*

1. The applicant expects that the proposed use will have very little impact on adjacent uses. One reason is that the subject property consists of 5-acres and is isolated from adjacent parcels. They note that there are no residences within easy view of the building site on the subject property. The site is bordered to the east by the airport runways, to the west by Highway 101, and to the north and south by heavily wooded areas. That said, the applicant indicates that they will take additional measures to ensure that adverse impacts will be ameliorated. They point out that there will be little traffic generated by the proposed use, and they will not be using the facility for large group gatherings such as conferences. With what traffic that is generated, it will travel over paved roads, so dust should not be a problem.

2. The Animal Shelter itself will be soundproofed to the greatest extent practical. Because of the nature of the facility and the need to keep the animals safe and disease free, care will be taken to control and sequester odors and properly separate, treat, and dispose of waste. There will be a limited dog walking trail on the Animal Shelter property where County employees and volunteers will exercise dogs (see site plan, Attachment "H"). They expect though that the impact to others attributed to the walking trail will be limited as these walks will not normally occur at night and will be limited to small numbers at a time.

3. The only comment received in response to the public notice was from Jim and Karen Otta. Their property is roughly 1,000 feet southwest of the location where the animal shelter is to be built, on the west side of US 101. They are concerned with animal noise compounding the background noise they already deal with from US 101 traffic and airport activities. They request that the animal shelter be soundproofed and noise be monitored so that it doesn't raise the noise level on the west side of the highway (Attachment "O"). This concern relates to their use and enjoyment of residential property rather than the safety concern addressed in the previous finding.

4. The applicant indicates that they are soundproofing the building which will mitigate noise from animals housed within the structure. Many of the kennels though will have outdoor

exposure per the applicant's floorplan (Attachment "I"). While this somewhat limits the benefit of the soundproofing, the applicant notes, and the Commission agrees, that the facility is well removed from residential properties in the area. That distance, coupled with the substantial vegetated buffer between the area that is to be developed and nearby residences, will reduce the impact of animal noise, enough so that ongoing noise monitoring is not warranted.

5. Given the above, the Planning Commission concludes that the animal shelter and storage uses do not have an adverse impact greater than existing uses on nearby properties.

*D. Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.*

1. The applicant notes that this criterion concerns the development character of the area, so it is important to look at the surrounding uses to the subject property. They note that to the north lies the Newport Municipal Airport, with light industrial development beyond. To the east lies the Newport Municipal Airport and leased private airplane hangars, with forest uses beyond. To the south lies the Newport Municipal Airport, with residential and forest uses beyond. To the west lies Highway 101, with residential neighborhoods and the Pacific Ocean beyond. In other words, the subject property is largely surrounded by the Newport Municipal Airport or forested uses with distant residential uses beyond that.

2. The buildings at the subject property will be single-story. They will be congruous with the hangars and other buildings of the airport. The animal shelter will be approximately 9,000+/- square feet in size, with a possible future expansion of an additional 3,000+/- square feet for kennels and a spay and neuter clinic. A second phase would also include two storage buildings that would be 10,000 square feet or less total.

3. The architecture of the storage buildings would not be significantly different in size or characteristics than what is already at the airport. The animal shelter facility will be a single-story building with pitched roofs and large overhangs at entrances to shelter visitors, animals and staff from weather. It is sited in such a way as to create a buffer to the wind and storms that approach from the southwest. Though not finalized at this stage building materials will be low maintenance and highly durable and will be chosen based on their ability to last in the harsh coastal environment. All materials and colors chosen will have low reflectivity and not create glare.

Likely exterior materials include:

- a. Concrete
- b. Fiber cement siding
- c. Cedar siding
- d. Metal panel
- e. Standing seam metal roofing
- f. Asphalt shingle roofing

4. Given the above, the Planning Commission concludes that the animal shelter and storage uses will be consistent with the overall development character of the neighborhood regarding building size and height.

### **OVERALL CONCLUSION**

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code; and, therefore, the requested conditional use permit is hereby approved with the imposition of the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Livestock and other large animals that cannot be boarded entirely within the Animal Shelter building, shall not be located on the premises for more than a 24-hour period unless a state of emergency has been declared by federal, state or local authorities.
3. Applicant shall be responsible for constructing water and wastewater service to the proposed lease area as necessary to support the animal shelter facility. This may include improvements that will be shared by, or benefit other users, in which case applicant's share of the costs is to be limited to that which is roughly proportional to the impact of their project.
4. Storm drainage attributed to the animal shelter, storage, and associated impervious and semi-pervious surfaces shall be managed on-site, with such improvements having the capacity to handle the volume and velocity of run-off attributed to a 25-year, 24-hour storm event. On-site drainage basins or other water impoundments may not exceed a quarter acre in size. All drainage improvements are to be complete and operable prior to occupancy of facility.
5. Applicant shall be responsible for widening the driveway to the facility to a width of 22-feet from its junction with the main airport access road to the new road approach that will serve the animal shelter facility. The design of such improvements is subject to review and approval by the City Engineer, and the improvements are to be completed prior to occupancy of the facility.
6. A landscape plan shall be included with the building permit submittal that identifies the location, species and anticipated peak height of all trees that are to be planted. In preparing the plan, emphasis should be given to tree species that will not exceed 50-feet in height at maturity.
7. Outdoor lighting fixtures are to be downward directed and shielded. Specifications for the fixtures are to be included with the building permit application.
8. Glare producing material, including but not limited to unpainted metal or reflective glass shall not be utilized on exterior surfaces of the proposed structures. Treatment of any exterior metal surfaces shall be called out on the elevation drawings included with the building permit submittal,

along with the reflectivity rating of exterior windows.

9. Consistent with NMC 14.52.140, building permits for the 9,000+/- square foot initial phase of the animal shelter project shall be obtained within 18-months of the date this land use decision is final. Building permits for the 6,000 and 4,000 +/- square foot storage buildings and the 3,000+/- square foot, second phase of the animal shelter facility are to be obtained within 5-years of the date this land use decision is final.
  
10. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.

File: 1-NB-22

Date Filed: January 18, 2022

Hearing Date: February 14, 2022/Planning Commission

**PLANNING STAFF REPORT**

**File No. 1-NB-22**

- A. **APPLICANT/PROPERTY OWNER:** Ric Rabourn (Hallmark Inns & Resorts (owners), and Michael Abbott, Architect, (Authorized Representative)).
- B. **REQUEST:** Consideration by the Planning Commission of a modification to the design of a new 25-room hotel that was found to have satisfied the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21).
- C. **LOCATION:** Assessor's Map 11-11-08-BB, Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is roughly 26,000 sq. ft. in size.
- D. **STAFF REPORT**
- 1.) **Report of Fact**
- a) **Plan Designation:** Commercial
- b) **Zone Designation:** C-2/HNBO/"Tourist Commercial (Historic Nye Beach Design Review District (HNBO))".
- c) **Surrounding Land Uses:** Don and Ann Davis Park to the west, the Newport Performing Arts Center to the east, Whaler Motel to the south and Don and Ann Davis Park and Pacific Kitchen at Nye Beach (affiliated with Hallmark Inns) to the north.
- d) **Existing Structures:** Two-existing single-family residences operated as vacation rental dwellings.
- e) **Utilities:** All are available to the site.
- f) **Development Constraints:** Tsunami Hazards Overlay Zone.
- g) **Past Land Use Actions:** File No. 1-NB-21 – 2-CUP-21, dated 5/24/21, Historic Nye Beach Design Review District and Conditional Use Permit approval for a 25-guest room hotel with a café, bar, office and lobby space (identified as “The Whaler at Nye Beach”). File No. 2-TEP-05, dated 3/24/05, at 39 SW Elizabeth Street. Authorized installation of retaining walls within the public road right-of-way.
- h) **Attachments:**
- Attachment "A" – Application Form
- Attachment "A1" – Applicant’s Revised Narrative
- Attachment "A2" – Revised Building Plans and Elevation Drawings \*
- Attachment "A3" – Revised Landscaping Plan for Expansion \*

Attachment "A4" – Landscaping Adjacent to Existing Whaler \*

Attachment "A5" – Site Plan for Whaler Expansion \*

Attachment "A6" – Overall Site Plan (Includes Existing Whaler) \*

Attachment "B" – Final Order and Findings for File #1-NB-21/2-CUP-21

Attachment "C" – Public Notice

Attachment "D" – Email from Wendy Engler with Response

Attachment "E" – Nye Beach Design Review Guidelines and Illustrations.

\* Note: Reduced for copying purposes. Full size plans available at the Community Development Department.

- 2.) **Explanation of the Request:** The applicant is seeking approval to modify architectural and site plan elements of a new 25-unit hotel project, which the Planning Commission found to be compliant with the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21). Applications for a modification must be submitted and processed in the same manner as the original application (NMC 14.30.110). The design review permit being modified (File No. 1-NB-21) was originally approved by the Planning Commission under a Type III review process (NMC 14.52.030(B)).

Proposed changes include an alteration to the building footprint that results in a portion of the structure being 5-feet further away from W. Olive Street (to improve waterproofing); relocation of mechanical equipment to the top of the building; removal of exterior stairs adjacent to W. Olive Street (for security); relocation of the elevator shaft interior to the building; adjustments to the location of certain decks, balconies, and windows; reconfiguration of sidewalk/frontage improvements along SW Dolphin Street; and the elimination of one planned off-street parking space.

- 3.) **Evaluation of the Request:**

- a.) **Comments:** All affected property owners within the notification area, City departments, and public/private utilities were notified on January 25, 2022. As of February 10, 2022, one comment was received from Wendy Engler (Attachment "D"). Ms. Engler sought clarification on certain aspects of the proposed modifications. A response to her questions was provided on 2/7/22.
- b.) **Applicable Criteria:** The proposed project required design review approval by the Planning Commission because the building exceeds 35-ft in height and 65-ft in length, which is the limit that can be approved ministerially by staff under the design standards (NMC 14.30.060(B)(1)). Since the Planning Commission is the designated approval body, a Type III review is required (NMC 14.52.030(B)).

To obtain design review approval the applicant must demonstrate that the proposed development is consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030. Each of the design review guidelines is listed below in the staff analysis.

- c.) **Staff Analysis:** To grant design review approval, the Planning Commission must find that the applicant's proposal meets the approval criteria listed below. Applicant narrative statements are taken from the memo included with their application (Attachment "A1"). Referenced illustrations are included in Attachment "E."

### 1.) *Design Guideline 1: Contextually-Appropriate Design*

**Intent:** *For residential development, the architectural heritage of the Nye Beach area - as documented in historical photos and drawings or by photographs presented in support of the development - shall be maintained.*

**Approaches:**

- *New development should utilize roof types common to the district, such as steep pitched gable, multiple lower pitched gable, or hip.*
- *New development should include in the design common main facade elements (such as porches, verandas, sunrooms and/or other architectural/design features as identified in the design standards or as documented to exist within the design review district).*
- *Buildings shall feature variety in building shape, height, roof lines, setbacks, and design features consistent with the design guidelines.*
- *For multiple family development (greater than 2 units), trash collection areas shall be screened.*

**Reference:** *Illustrations #2, #3, #4, #5, and #7.*

Applicant Narrative: Not addressed.

Staff: This guideline applies to residential development, and is not applicable to a hotel/motel project.

### 2.) *Design Guideline 2: Building Scale*

**Intent:** *Commercial building elements oriented towards a public or private street shall incorporate specific elements that contribute to the established scale of the district and support an active streetscape.*

**Approaches:**

- *Commercial buildings (excluding portions of a hotel/motel where guest rooms are on the ground floor) shall support retail visibility and appropriate district scale by utilizing banks of windows with multiple*

*small windows (less than 20 square feet) and/or large windows with multiple panes along all sides abutting a public right-of-way.*

- *The contextual scale of new large commercial buildings over two stories shall be reduced by using horizontal or vertical divisions and stepped roof lines.*
- *Buildings greater than one story in height shall be designed with canopies, balconies, offsets in the building facade along each public right-of-way, or other architectural/design features that reduce the building's vertical emphasis.*
- *Buildings greater than 2 stories, and/or longer than forty feet (40') shall include two or more of the following elements to break down the scale of the building:*
  - *A significant offset (3' minimum depth, 8' minimum width) in the full building massing (Illustration # 10).*
  - *A step-back (6' minimum) of floors above the second floor.*
  - *Subdivision into a series of distinct building masses, articulated as separate structures.*
  - *Multiple ground floor entries at 30' maximum spacing.*

**Reference:** *Illustrations #6, # 7 and #8.*

**Applicant Narrative:** The public oriented Café veranda still allows public access but only on the SW side of the patio, which connects directly to the new crosswalk leading to Nye Beach. The Northern stair has been removed to provide additional security for the ground floor sleeping units.

**Staff:** The applicant's updated architectural elevations illustrate how this design guideline has been satisfied (Attachment "A2"). Changes from the previously approved set of plans are shown in red. Large multi-pane windows have been incorporated into ground floor elevations abutting public rights-of-way even though portions of the structure are exempt from that requirement because they include guestrooms on the ground floor. The applicant has reduced the contextual scale of the building by varying the roof line across three distinct segments of the structure and by incorporating into the design multiple, stepped roof lines. Balconies have been incorporated where the building faces public rights-of-way and the structure is subdivided into distinct building masses with significant off-sets to reduce massing. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

### **3.) Design Guideline 3: Roof Design**

**Intent:** *Roofs should have similar configuration and character to historic styles in the district.*

**Approaches:**

- *Roof slopes on commercial projects shall be between 5:12 and 12:12*

*unless there is a flat roof with parapet.*

- *Mechanical equipment shall be screened and integrated into the roof design.*
- *Roof shapes shall be consistent with traditional styles found in the neighborhood.*
- *A standing seam is recommended for metal roofs.*
- *Gable and hip roof forms are recommended.*
- *Parapet walls shall be integrated into the building.*

**Reference:** *Illustrations #2, #5, #6 and #7*

Applicant Narrative: Some mechanical will need to be placed on the roof as bringing the ductwork through the buildings concrete floor slab and needing louvers to be added in the retaining walls facing Olive would be unsightly and expensive. The newly adjusted roof (see on sheet A1.05, Attachment "A2") allows for a hidden mechanical well to take fresh air to the main portion of the building from above.

Staff: The 6:12 gable roof pitch is common in Nye Beach and within the slope range that is permitted. The rooftop mechanical equipment enclosure is modest in size relative to the overall mass of the building and does not materially impact the visual appearance of the roof. Further, parapet walls are integrated into the design as an accent. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

#### **4.) *Design Guideline 4: Commercial Buildings Define Continuous Street Edge***

**Intent:** *Support safe and "walkable" streets by creating a traditional town pattern of commercial buildings lining public streets. Create high visibility between commercial interiors and public ways.*

##### **Approaches:**

- *In commercial areas, commercial buildings shall abut the front property line. Allowable exceptions to the requirement to abut the front property line include areas where the existing buildings adjacent to the property are set back from the property line, where a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included, or where severe topography or an easement precludes the building abutting the front property line.*
- *Commercial buildings shall abut a side yard property line where possible except to allow access for parking or fire egress, the side abuts a zoning district which requires a side yard, or a setback is required for ocean front lots.*
- *Separation between building walls at the street level shall be avoided except for pedestrian and parking access, or a pedestrian oriented*

*feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included.*

- *Front and side yard setbacks, where they exist, shall be fully landscaped or shall provide a pedestrian oriented feature as described previously.*
- *On commercial, institutional, public, and multiple family residential (with three or more units) buildings, a primary entrance to the building shall face the frontage street. Entries from off-street parking lots shall not be made more prominent than the entrance from the street.*
  - *Trash collection areas shall be screened.*

**Reference:** *Illustrations # 5, # 6, # 7, and # 8.*

Applicant Narrative: Access to trash bins in the parking structure would be compromised due to space constraints and a maximum clearance height of 9'-0". Applicant propose the trash facilities stay in its current location next to the Pool building to better accommodate service truck access.

Staff: This guideline requires commercial buildings abut front property lines. An exception is provided where a pedestrian oriented feature is incorporated between the front lot line and building. This includes courtyards, patios and outdoor café seating. The applicant has incorporated a patio/veranda with café seating between the building and front lot lines along SW Elizabeth and W Olive Streets in keeping with this requirement (Sheet A101, Attachment "A2"). Moving the building footprint 5-feet back from Olive Street does not materially change the pedestrian oriented nature of this feature. A corner of the building abuts SW Dolphin Street, which is also a front lot line. Shifting the building footprint required they notch out a small portion of the corner of the structure to avoid a property line encroachment. This provides a degree of visual relief. The project still provides separation between the existing Whaler Hotel and new development, and a pedestrian walkway is incorporated to enhance connectivity. Entrances to the hotel lobby face SW Dolphin Street and West Olive Street. As noted by the applicant, trash collection will be collocated with the existing Whaler Motel near the existing pool building instead of being located in the sub-grade garage of the expansion. This means that no trash collection areas will be located within the portion of the project that is subject to design review. The applicant's landscape plan for the hotel expansion (Attachment "A5") illustrates that the setback areas will be fully landscaped. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

##### **5.) *Design Guideline 5: Consistency with Predominant Styles and Features***

**Intent:** *Buildings shall generally be compatible in design and appearance with other buildings in close proximity by including similar types of architectural features and materials.*

**Approaches:**

- *Proposed buildings shall include design features that are consistent with the design standards and are similar in nature to buildings in direct proximity to the site.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards, the proposed building subject to design review shall include architectural features that are common to the district as identified in the design standards or by findings documenting similar architectural features found within the design review district.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards or in the design review district, innovation and creativity in design may be allowed consistent with the design guidelines.*
- *In keeping with traditional styles, where a transition is made in the building's siding material, the transition should occur at an inside corner, rather than an outside corner.*

**Reference:** *Illustrations # 7, #8, and #11*

**Applicant Narrative:** The applicant notes that their building elevations have been updated to show changes to the deck railing and window layouts. Materials are staying the same. (see Sheets A3.01, A3.02, G0.10, Attachment "A2")

**Staff:** The applicant's updated site plan and architectural elevation illustrate that the design changes to the exterior of the new hotel building continue to incorporate architectural features common to the district, and constitute substantial evidence that the Commission can rely upon in finding that this guideline has been satisfied.

#### **6.) Design Guideline 6: Parking Orientation and Building Form**

**Intent:** *For commercial and multiple family residential (greater than 2 dwelling units) projects, the building massing shall not be shaped by off-street parking. Building massing should generally take traditional forms that are observed in the district, the historical record of Nye Beach, or that can be demonstrated to be consistent with the dominant architectural styles of the district.*

**Approaches:**

*On-site parking shall be at the rear or side of the building or below street grade underneath the building with access via alleys or interior streets unless, based on review of the project, the review authority determines that topography such as steep slopes precludes side or rear parking. Parking garages shall utilize similar architectural details as the main building. Shared parking facilities are allowed and are encouraged. Views of parking*

*areas from adjacent residential and commercial uses shall be screened through the use of landscaping and/or fencing. Pedestrian paths shall be clearly defined. Textured pavings are preferred over painted stripes for defining walkways.*

**Reference:** *Illustrations #6 and #9.*

Applicant Narrative: Looking at the sub-level parking count, due to the previous design having no structural elements in it (columns) we lost 3 stalls. By shifting the larger block of units 5'-0" south we were able to re-gain 2 stalls (net loss of 1). We were able to pick up a stall on the surface at the entry and may need to add a few street parking stalls into the overall calculation (street parking was not previously included).

Staff: The bulk of the required off-street parking continues to be provided in a below grade garage, and landscaping is proposed such that the entrance to the parking garage will be screened from view (particularly as the landscaping matures). Textured pavings are preferred over painted stripes for defining walkways. The applicant has agreed to install two crosswalks where textured pavers will be used versus striping so that the visual appearance aligns with crosswalks elsewhere in the Historic Nye Beach Overlay District (HNBO). One is the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and the other is a crossing at the intersection of SW Dolphin Street and W Olive Street. The crosswalks at Cliff /Olive Streets and Coast/Olive Streets are an example of the textured walkways used in the district. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

### **7.) Design Guideline 7: Connected Pedestrian Network**

**Intent:** *Maintain and reinforce the walking environment of Nye Beach with a network of public sidewalks and private paths.*

#### **Approaches:**

- *For commercial projects, provide pedestrian paths to create linkages between adjoining public and private spaces.*
- *Circulation routes shall be continuous and integrated into the larger pedestrian circulation network.*
- *Specialty paving is encouraged.*

**Reference:** *Illustrations #6 and #9.*

Applicant Narrative: A few updates have been made to the site plan including a new sidewalk connecting Elizabeth with the new Dolphin Street improvements. Both the North and South entrances for Dolphin will be

brought up to current standards with connecting fire lane access and landscaping per previous city discussions.

Staff: The applicant's overall site plan (Attachment "A6") illustrates how integrated pedestrian pathways will be constructed in both the public and private space. Like the previous guideline, use of specialty paving is encouraged. New public sidewalk along W Olive, SW Elizabeth, and SW Dolphin Streets will be concrete, consistent with the City's sidewalk standards. The applicant has more flexibility in how they incorporate specialty paving within the interior of the property, including the pathways, veranda, and porte cochere, and the applicant has agreed to include such elements in their final design. The fire lane that is to be built in the undeveloped portion of SW Dolphin Street will be paved, and is to double as a multi-use path. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

#### **8.) Design Guideline 8: Exterior Lighting and Glare Avoidance**

*Intent: Provide a well-lit public environment, while minimizing the incidence of glare.*

##### **Approaches:**

- *Exterior permanent lighting for commercial projects shall be restrained by using lighting features that minimize the impact of lighting such as full-cut off fixtures, low wattage bulbs, and/or recessed or shielded lighting, such that no direct glare occurs onto public right-of-way or adjacent property.*
- *Where building-mounted lighting – wall sconces, awning-mounted downlights, etc. - is used to illuminate an adjacent public sidewalk, the lighting source itself should be recessed or screened to avoid uplight and glare. Targeted uplighting may be used to draw attention to a specific design element provided it is directed at that feature.*
- *Areas used extensively at night shall only be illuminated to the extent necessary for safety and security.*
- *On-site lighting shall be related to the site and retained on the site by directing the light downward, recessing the light, and/or shielding the light. Lighting fixtures shall complement the architectural character of the building.*
- *If landscape lighting is used, the landscape lighting shall be restrained by using lighting techniques (i.e. recessing the light, shielding the light, using low wattage bulbs) that minimize the impact of light.*
- *The use of light poles similar in appearance to the light poles installed as part of the Nye Beach Streetscape Project is acceptable for parking lot lighting and other lighting for which a light pole is used.*

**Applicant Narrative:** The applicant notes that no changes are proposed to the overall lighting plan, and that, if anything, some improvements may occur with the building being pushed back 5'-0". They further noted in the response to Ms. Engler that a combination of bollard and landscape lighting will be used along paths, and that acorn type street lighting similar to the Don and Ann Davis Park lighting will be included in their final plans.

**Staff:** Building mounted and accent lighting options were included with the application materials upon which the previous approval was based, and the applicant is not proposing changes with this application. The fixtures will be shielded and/or recessed consistent with the guideline requirements and are oriented such that they will not direct glare onto public rights-of-way or adjacent property. No light poles are proposed; however, a pole(s) may be needed for safety purposes, particularly at the intersection of SW Dolphin and Olive Streets. The guideline calls for light poles to match the Nye Beach Streetscape Project, which in this case would be acorn style lighting, the nearest example of which is at Cliff and Olive Streets. The applicant accepted a condition requiring acorn style lighting with the previous approval. Considering the above, there is substantial evidence in the record for the Planning Commission to find that this design review guideline has been met.

#### 9.) *Design Guideline 9: Requirements for solar access*

**Intent:** Ensure new development projects do not excessively shade neighboring properties.

#### **Approaches:**

- Commercial and multi-family buildings shall be massed to avoid casting a direct shadow onto the public sidewalk across a bordering street.
- The third story on a commercial or multi-family building shall be stepped back to minimize shadowing of adjoining properties.
- Solar impacts shall be assessed for the following times
  - Time of year: between February 21 and October 21
  - Time of day: between 10:00 am and 2:00 pm
- Projects of greater than 2 stories shall submit a simple solar shading sketch that shows conformance with this standard.

**Reference:** Illustration #12.

**Applicant Narrative:** The applicant notes that new changes to the building will not impact solar access.

**Staff:** The building modifications are minor enough that the Planning Commission can rely upon the solar impact analysis provided with the previous as evidence that this standard has been satisfied. That analysis demonstrated that the shadow patterns attributed to the three-story hotel

building will not extend so far that they would shadow walkways on the far side of a bordering street nor will they impact neighboring properties.

- 3.) **Conclusion:** If the Planning Commission finds that the design modifications comply with the design guidelines established for the Design Review Overlay District, then it should tentatively approve the request and direct staff to prepare findings of fact and a final order in support of such approval for consideration at the next regularly scheduled meeting. If the Commission finds that the application does not comply with the criteria, then it should specify where the application fails to meet the criteria and explain how it could be made to comply. If, on the other hand, the Commission finds that the design modifications cannot be made to comply, then it should identify why that is the case and direct staff to prepare findings and a final order for denial. Pursuant to NZO 14.30.080(B), required modification(s), if any, to the design shall only be specified by the Planning Commission if necessary to avoid a finding that the application does not meet the applicable design guidelines and shall be limited to only those modification(s) necessary to avoid a denial of the permit application.

As outlined in the staff report, the applicant has provided sufficient evidence to establish that the design guidelines have been satisfied, and staff recommends the Commission approve the request with the same conditions imposed with the Final Order for File No. 1-NB-21/2-CUP-21 may want to impose include:

- a) Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
- b) Applicant/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
- c) Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
- d) Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.
- e) Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A-2." All required public improvements shall be completed prior to occupancy.

- f) The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
- g) Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.



Derrick I. Tokos  
Community Development Director  
City of Newport  
February 10, 2022

# City of Newport Land Use Application

PLEASE PRINT OR TYPE • COMPLETE ALL BOXES • USE ADDITIONAL PAPER IF NEEDED

Applicant Name(s): <b>Ric Rabourn</b>	Property Owner Name(s): <i>If other than applicant</i> <b>Hallmark Inns &amp; Reso</b>
Applicant Mailing Address:  <b>Five Centerpointe Dr. #590 Lake O</b>	Property Owner Mailing Address: <i>If other than applicant</i> <b>Same</b>
Applicant Telephone No.: <b>503-635-4555 ric@hallmarkinns.com</b>	Property Owner Telephone No.: <i>If other than applicant</i>
E-mail: <b>503-635-4555 ric@hallmarkinns.com</b>	E-mail:
Authorized Representative(s): <i>Person authorized to submit and act on this application on applicants behalf</i> <b>O'Brien Construction/Open Concept Architecture</b>	
Authorized Representative Mailing Address: <b>208 NW 21st Ave #201, Portland, OR 97209</b>	
Authorized Representative Telephone No.: <b>971-219-3367</b>	E-Mail: <b>r.schutte@openconceptarchitecture.com</b>

## Project Information

Property Location: <i>Street name if address is not assigned</i> <b>33 SW Elizabeth St</b>	
Tax Assessor's Map No.: <b>11-11-08-BB</b>	Tax Lot(s): <b>15901, 15902 &amp; 15903 (33 SW Elizabeth St; 39 SW</b>
Zone Designation: <b>C2</b>	Legal Description: <i>Add additional sheets if necessary</i>
Comp Plan Designation: <b>Commercial-Nye Beach O</b>	
Brief Description of Land Use Request(s): <b>See drawings and updated Narrative describing changes to previously approved application. Mechanical equipment location, Structure and parking counts have been updated to meet actual design parameters .</b>	
Existing Structures: <i>If any</i> <b>Two existing Single Family Houses to be removed</b>	
Topography and Vegetation: <b>Flat topography with minimal vegetation. Slopes along street frontages.</b>	

### APPLICATION TYPE (please check all that apply)

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Annexation<br><input type="checkbox"/> Appeal<br><input type="checkbox"/> Comp Plan/Map Amendment<br><input type="checkbox"/> Conditional Use Permit<br><input type="checkbox"/> PC<br><input type="checkbox"/> Staff<br><input checked="" type="checkbox"/> Design Review<br><input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Interpretation<br><input type="checkbox"/> Minor Replat<br><input type="checkbox"/> Partition<br><input type="checkbox"/> Planned Development<br><input type="checkbox"/> Property Line Adjustment<br><input type="checkbox"/> Shoreland Impact<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> UGB Amendment<br><input type="checkbox"/> Vacation<br><input type="checkbox"/> Variance/Adjustment<br><input type="checkbox"/> PC<br><input type="checkbox"/> Staff<br><input type="checkbox"/> Zone Ord/Map Amendment<br><input checked="" type="checkbox"/> Other <u>Minor adjustment</u> |
|---|---|--|

### FOR OFFICE USE ONLY

	File No. Assigned: _____	
Date Received: _____	Fee Amount: _____	Date Accepted as Complete: _____
Received By: _____	Receipt No.: _____	Accepted By: _____

(SEE REVERSE SIDE)

Community Development & Planning Department • 169 SW Coast Hwy, Newport, OR 97365 • Derrick I. Tokos, AICP, Director

**I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development & Planning Department Staff Report concerning the applicable criteria.**

**I certify that, to the best of my knowledge, all information provided in this application is accurate.**

 _____ Applicant Signature(s)	<u>1.16.22</u> Date Signed
 _____ Property Owner Signature(s)	<u>1.16.22</u> Date Signed
 _____ Authorized Representative Signature(s)	<u>1.16.22</u> Date Signed

***Please note application will not be accepted without all applicable signatures.***

***Please ask staff for a list of application submittal requirements for your specific type of request.***

## **'REVISED Project Design Narrative'**

Newport Design Review: Guidelines and Standards  
Historic Nye Beach Design Review District

### **Whaler @ Nye Beach**

NEWPORT, OREGON

HALLMARK INNS AND RESORTS

Lake Oswego, Oregon

The Following revisions are requested to the previously approved development package due to discoveries during the Design Development stage of the project. See below for affected sections and attached drawings that indicate changes from the previously approved design package.

#### **Design Guideline #2: Building Scale**

\* (item #4) The Public oriented Café veranda still allows public access but only on the SW side of the patio, which connects directly to the new crosswalk leading to Nye Beach. The Northern stair has been removed to provide additional security for the ground floor sleeping units.

#### **Design Guideline #3: Roof Design**

\* (item #3) Some mechanical will need to be placed on the roof as bringing the ductwork through the PT concrete floor slab and needing louvers to be added in the retaining walls facing Olive will be unsightly and expensive. The newly adjusted roof (see on sheet A1.05) allows for a hidden Mechanical well to take fresh air to the main portion of the building from above.

#### **Design Guideline #4: Commercial Buildings Define Continuous Street Edge**

\* (item #6) Access to trash bins in the parking structure would be compromised due to space constraints and a maximum clearance height of 9'-0". We propose the trash facilities stay in its current location next to the Pool building to better accommodate service truck access.

#### **Design Guideline #5: Consistency with Predominate Styles and Features**

\* (General) Elevations have been updated to show updated deck railing and window layouts. Materials are staying the same. (see A3.01, A3.02, G0.10)

#### **Design Guideline #6: Parking Orientation and building form**

\* (General) Looking at the sub-level parking count, due to the previous design having no structural elements in it (columns) we lost 3 stalls. By shifting the larger block of units 5'-0" south we were able to re-gain 2 stalls (net loss of 1). We were able to pick up a stall on the surface at the entry and may need to add a few street parking stalls into the overall calculation (street parking was not previously included).

#### **Design Guideline #7: Connected Pedestrian Network**

\* (General) A few updates have been made to the site plan including a new sidewalk connecting Elizabeth with the new Dolphin Street improvements. Both the North and South entrances for Dolphin will be brought up to current standards with connecting fire lane access and landscaping per previous city discussions.

#### **Design Guideline #8: Exterior Lighting and Glare Avoidance**

\* (General) No Change to the overall lighting plan, if anything some improvements may occur with the building being pushed back 5'-0".

#### **Design Guideline #9: Requirements for solar access**

\* (General) New changes to the building will not impact Solar access.

# WHALER HOTEL EXPANSION

155 SW ELIZABETH ST  
NEWPORT, OR 97365

NOT FOR CONSTRUCTION



WHALER HOTEL EXPANSION

155 SW ELIZABETH ST  
NEWPORT, OR 97365

HALLMARK HOSPITALITY

## Design Guidelines

- Design Guideline 1: Contextually-Appropriate Design - **Guideline applies to residential design - N/A to this project**
- Design Guideline 2: Building Scale - **Minor Change (see A1.02)**
- Design Guideline 3: Roof Design - **Minor Change (see A1.05)**
- Design Guideline 4: Commercial Buildings Define Continuous Street Edge - **No Change (A1.01)**
- Design Guideline 5: Consistency with Predominant Styles and Features - **No Change**
- Design Guideline 6: Parking Orientation and Building Form - **See "A.1.01 - FLOOR PLAN - GARAGE"**
- Design Guideline 7: Connected Pedestrian Network - **See "A1.02 - FLOOR PLAN - LEVEL 01"**
- Design Guideline 8: Exterior Lighting and Glare Avoidance - **No Change**
- Design Guideline 9: Requirements for solar access - **No Change**

KEY PLAN

REVISION LIST 

#	DATE	ISSUE

DATE: 11/13/2021

DRAWN: DAG

CHECKED: Checker

PROJECT #: 20-037

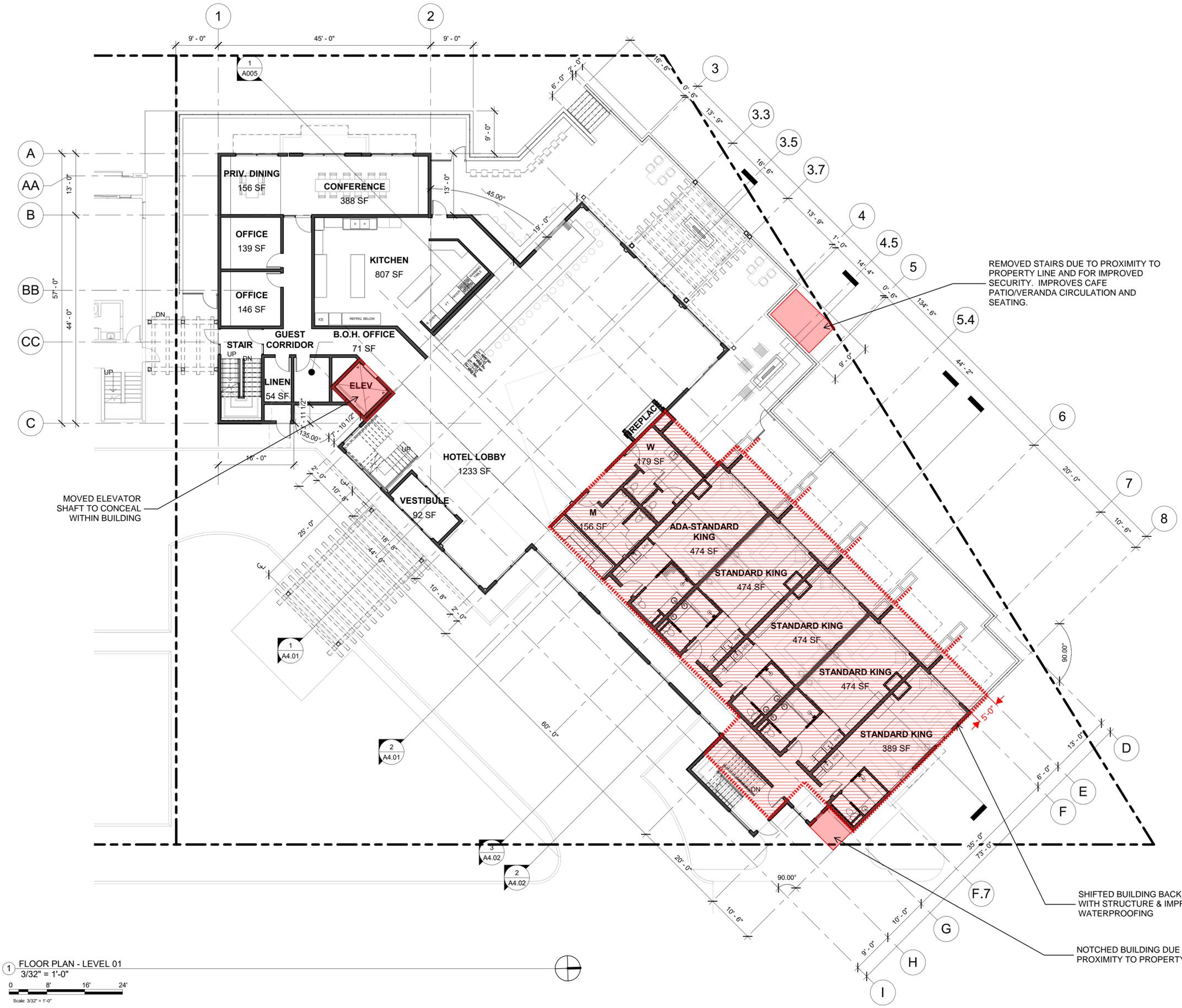
# G0.00

TITLE SHEET



NOT FOR CONSTRUCTION

**WHALER HOTEL EXPANSION**  
 155 SW ELIZABETH ST  
 NEWPORT, OR 97365  
 HALLMARK HOSPITALITY



MOVED ELEVATOR SHAFT TO CONCEAL WITHIN BUILDING

REMOVED STAIRS DUE TO PROXIMITY TO PROPERTY LINE AND FOR IMPROVED SECURITY. IMPROVES CAFE PATIO/VERANDA CIRCULATION AND SEATING.

SHIFTED BUILDING BACK 5' TO ALIGN WITH STRUCTURE & IMPROVE WATERPROOFING

NOTCHED BUILDING DUE TO PROXIMITY TO PROPERTY LINE

**1 FLOOR PLAN - LEVEL 01**  
 3/32" = 1'-0"  
 Scale: 3/32" = 1'-0"

KEY PLAN  
 REVISION LIST

#	DATE	ISSUE

DATE: 11/13/2021  
 DRAWN: DAG  
 CHECKED: Checker  
 PROJECT #: 20-037

**A1.02**

FLOOR PLAN - LEVEL 01

SHEET SIZE: 22" x 34" 11/7/2022 10:02:15 AM







NOT FOR CONSTRUCTION

WHALER HOTEL EXPANSION

155 SW ELIZABETH ST  
NEWPORT, OR 97365

HALLMARK HOSPITALITY

KEY PLAN

REVISION LIST

#	DATE	ISSUE

DATE: 11/13/2021

DRAWN: DAG

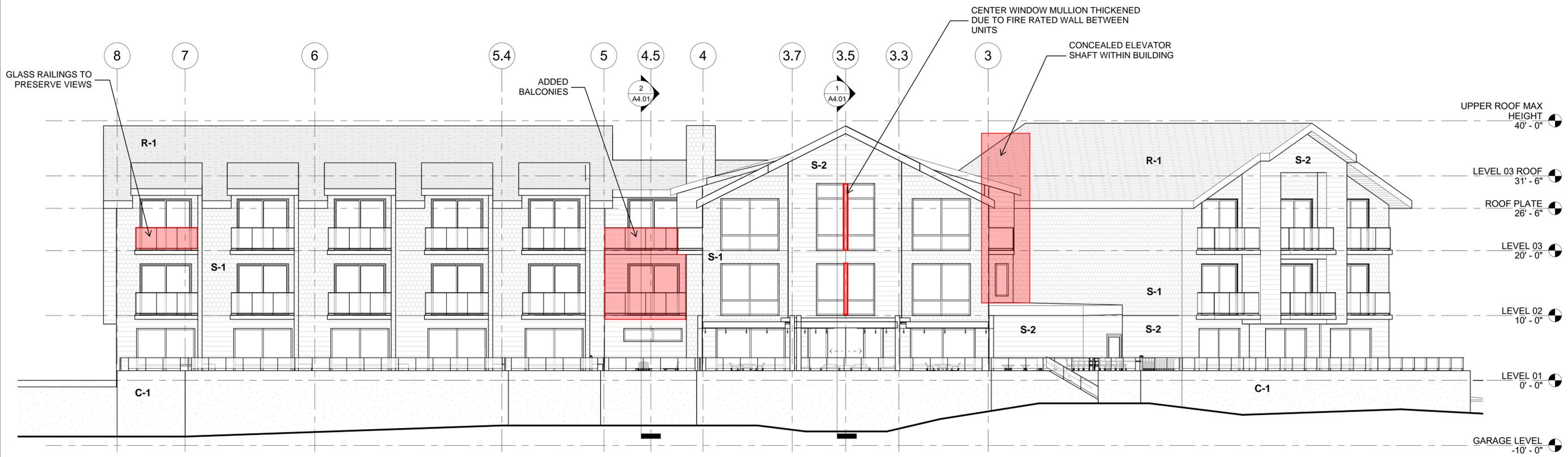
CHECKED: Checker

PROJECT #: 20-037

A3.01

EXTERIOR ELEVATIONS

SHEET SIZE: 22" x 34"



1 EXTERIOR - WEST ELEVATION - OCEANSIDE  
1/8" = 1'-0"



R-1 : COMP ROOFING - COLOR: BLACK OAK  
WD-1 : TIMBER POSTS & BEAMS



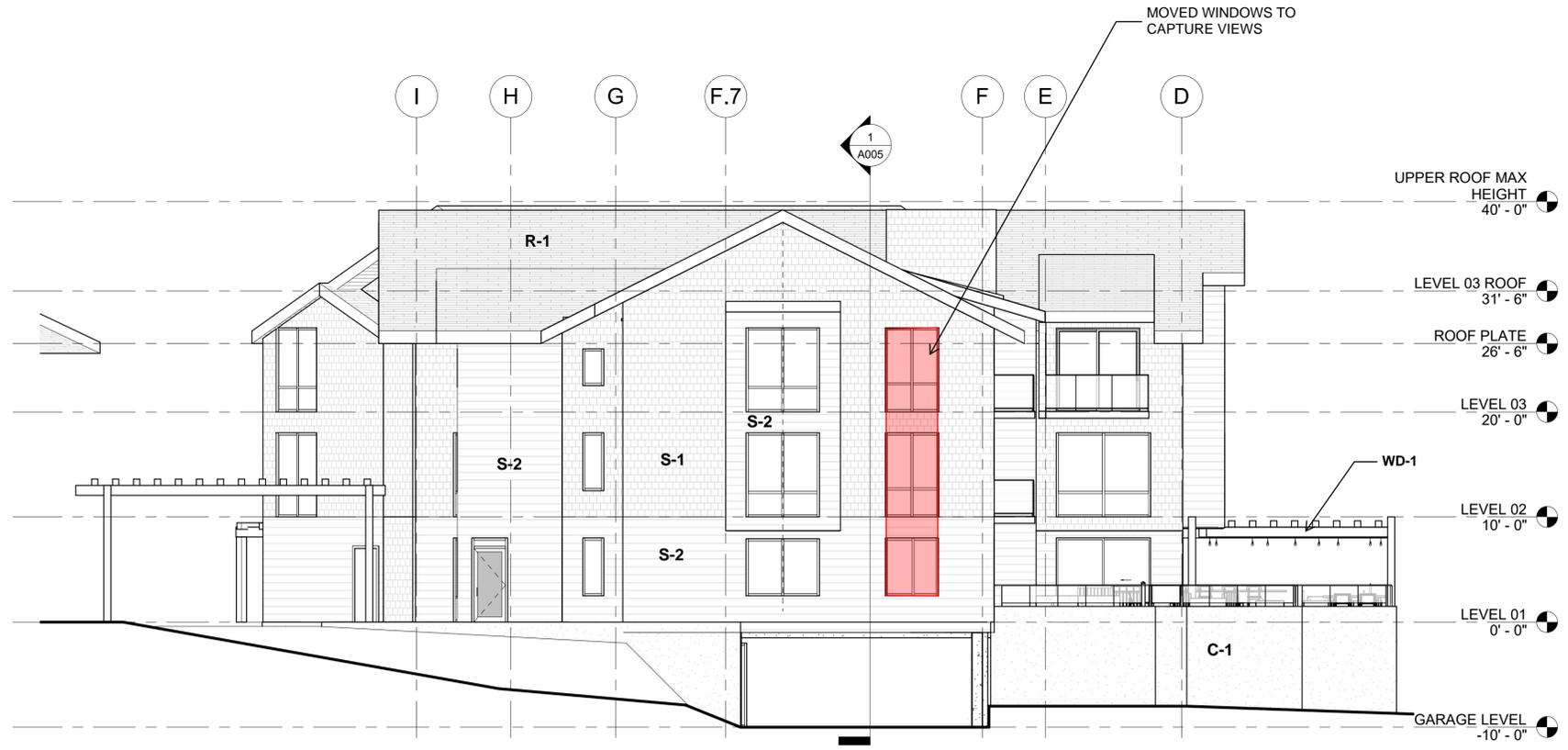
S-1 - SHAKE SIDING - CHARCOAL STAIN



S-2 - PLANK SIDING - CLEAR STAIN



C-1 - BOARD FORMED SITE WALL - COLOR: STONE



2 EXTERIOR - NORTH ELEVATION - DOLPHIN STREET  
1/8" = 1'-0"



NOT FOR CONSTRUCTION

WHALER HOTEL EXPANSION

155 SW ELIZABETH ST  
NEWPORT, OR 97365

HALLMARK HOSPITALITY

KEY PLAN

REVISION LIST

#	DATE	ISSUE

DATE: 11/13/2021

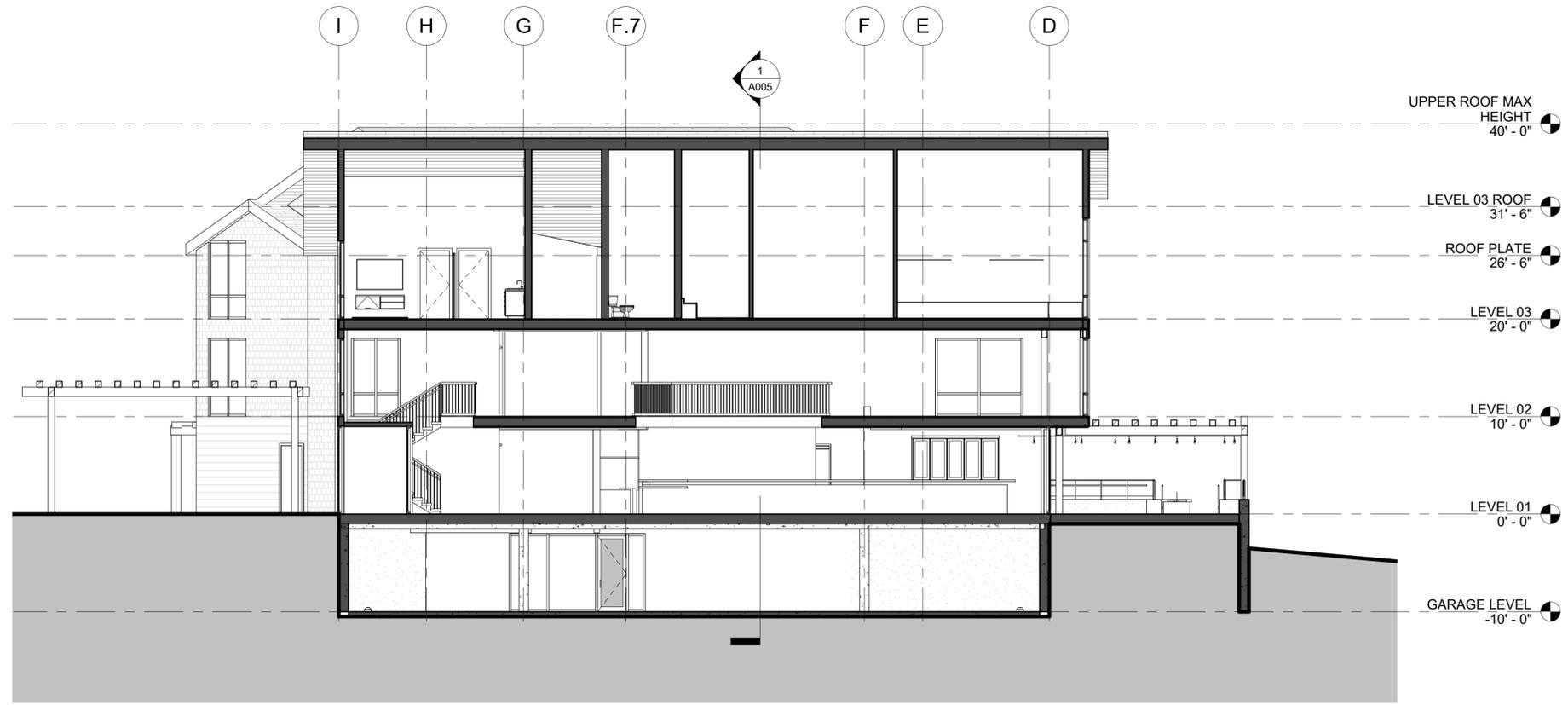
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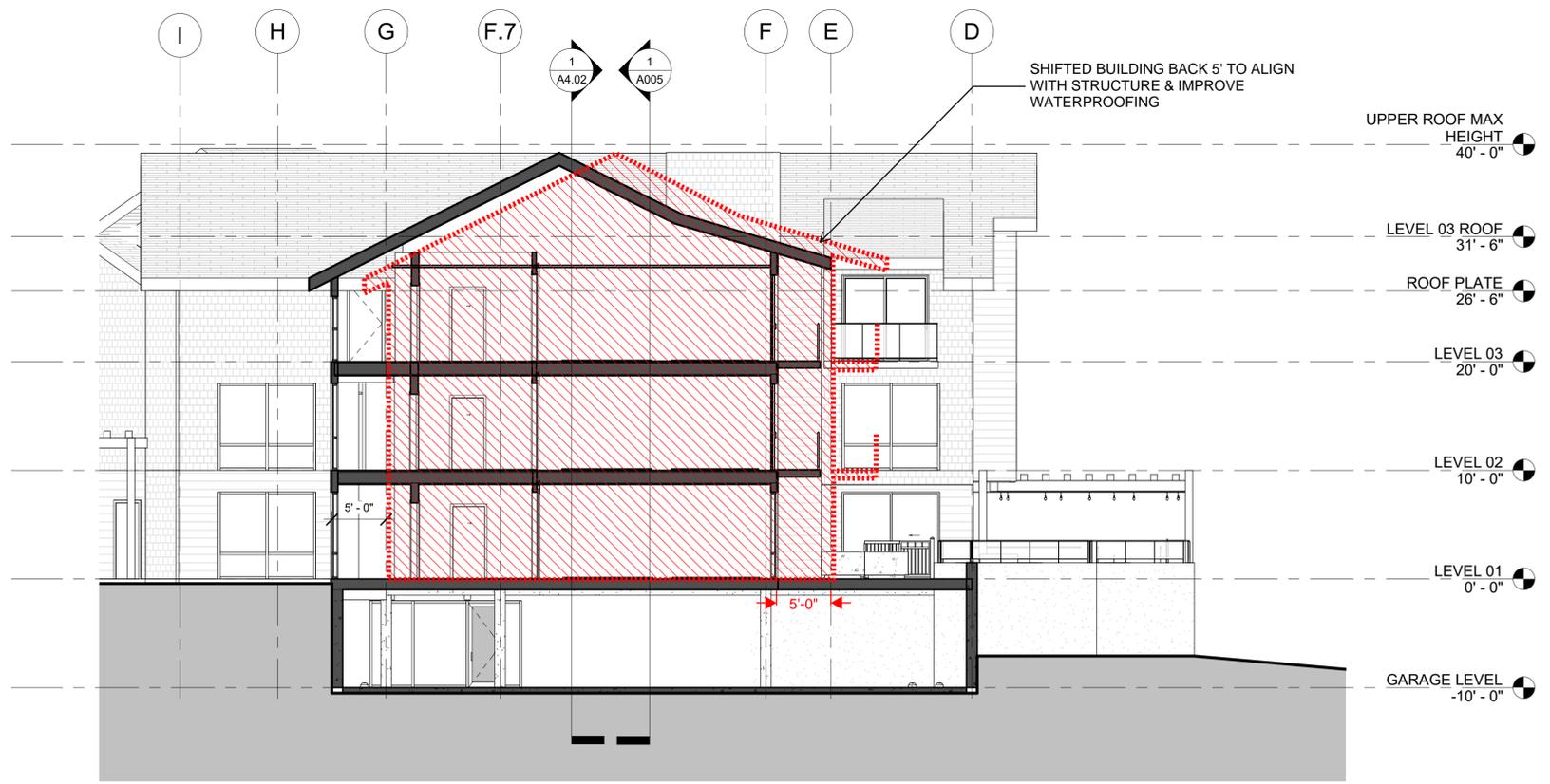
PROJECT #: 20-037

**A4.01**

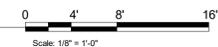
BUILDING SECTIONS



1 BUILDING SECTION  
1/8" = 1'-0"



3 BLDG SECT - N-S @ DORMER ROOF  
1/8" = 1'-0"





PRELIMINARY

WHPacific

THE WHALER INN

Newport • Oregon • USA

DATE:	10/04/19
PROJECT:	1803
DRAWN BY:	JC
LANDSCAPE NAME:	NEWPORT-SITE
CONCEPT:	CONCEPT 1_20 DATA
L100	

**PLANTING LEGEND**

POTENTIAL SPECIES (PER CITY OF NEWPORT ACCEPTABLE SPECIES):

**TREES**

**MEDIUM TREES**

SCIENTIFIC NAME	COMMON NAME	SIZE
CARPINUS BETULUS 'FASTIGIATA'	EUROPEAN HORNBEAM	2"
ZELKOVA SERRATA	JAPANESE ZELKOVA	2"
PRUNUS EMARGINATA	BITTER CHERRY	1.5"
RHAMNUS PURSHIANA	CASCARA	1.5"

**SMALL TREES**

SCIENTIFIC NAME	COMMON NAME	SIZE
MYRICA CALIFORNICA	PACIFIC WAX MYRTLE	1.5"
PRUNUS SERRULATA	FLOWERING CHERRY	1.5"
MALUS FUSCA	PACIFIC CRABAPPLE	1.5"

**SHRUBS**

**LARGE SHRUBS**

SCIENTIFIC NAME	COMMON NAME	SIZE
ARCTOSTAPHYLOS COLUMBIANA	HAIRY MANZANITA	5 GAL.
CEANOTHUS THYRSIFLORUS	BLUE BLOSSOM	5 GAL.
GAULTHERIA SHALLON	SALAL	5 GAL.
MAHONIA NERVOSA	DWARF OREGON GRAPE	5 GAL.

**SMALL SHRUBS**

SCIENTIFIC NAME	COMMON NAME	SIZE
ARCTOSTAPHYLOS UVA-URSI	KINKINNICK	2 GAL.
JUNIPERUS CONFERTA	BLUE PACIFIC SHORE JUNIPER	2 GAL.
ROSA NUTKANA	NOOTKA ROSE	2 GAL.

**FORBS/HERBS**

SCIENTIFIC NAME	COMMON NAME	SIZE
CALLUNA SP.	HEATHER (VARIETIES)	1 GAL.
CAMASSIA LEICHTLINII	LARGE CAMAS	1 GAL.
ERIGERON GLAUCUS	BEACH ASTER / FLEABANE	1 GAL.
FRAGARIA CHILOENSIS	BEACH STRAWBERRY	1 GAL.
GALIUM ODORATUM	SWEET WOODRUFF	1 GAL.
LUPINUS LITTORALIS	SEASHORE LUPINE	1 GAL.
THYMUS PSEUDOLANUGINOSUS	WOOLY THYME	1 GAL.

**GRASSES**

SCIENTIFIC NAME	COMMON NAME	SIZE
CALAMAGROSTIS ACUTIFLORA	FEATHER REED GRASS	1 GAL.
DESCHAMPSIA CESPITOSA	OREGON TUFTED HAIR GRASS	1 GAL.
SISYRINCHIUM IDAHOENSE	BLUE-EYED GRASS	1 GAL.

**LAWN**

SUNMARK SEEDS FIDO TURF: TURFNET PERENNIAL RYEGRASS (50%), ALLSTAR III PERENNIAL RYEGRASS (21%), SEALINK SLENDER CREEPING RED FESCUE (28%), AND SEASIDE II CREEPING BENTGRASS (1%). APPLICATION RATE: 5 PLS LBS PER 1,000 SQUARE FEET.

**PLANTING NOTES**

ALL SHRUB BEDS TO RECEIVE GROUND FIR BARK MULCH.



QUANTITY: 3



QUANTITY: 7



QUANTITY: 57



AREA: 881 SF



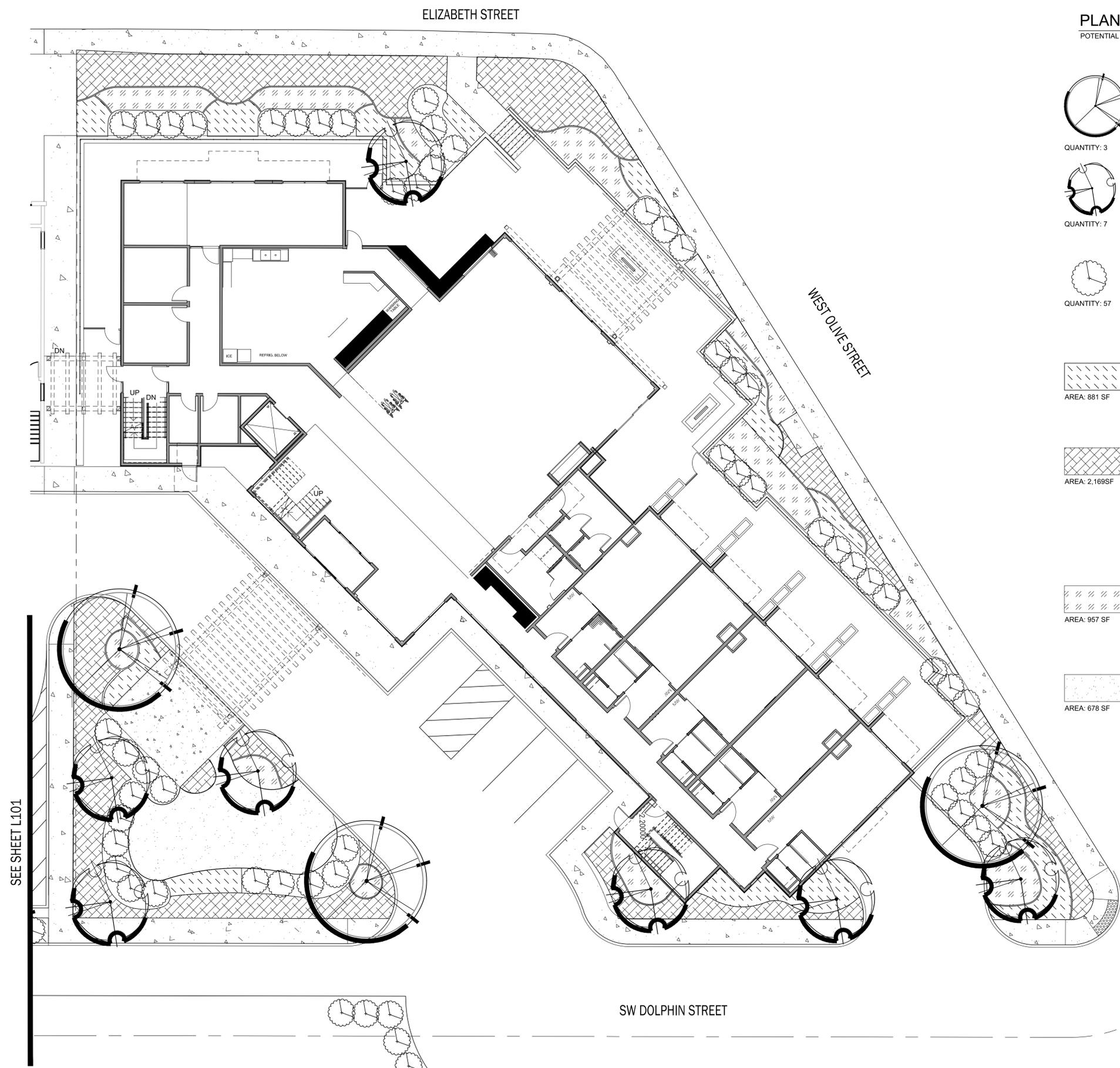
AREA: 2,169SF



AREA: 957 SF



AREA: 678 SF



SEE SHEET L101

CONCEPT LANDSCAPE PLAN  
SCALE: 1" = 10'

PRELIMINARY



THE WHALER INN

Newport • Oregon • USA

**PLANTING LEGEND**

POTENTIAL SPECIES (PER CITY OF NEWPORT ACCEPTABLE SPECIES):

**TREES**

**MEDIUM TREES**

SCIENTIFIC NAME	COMMON NAME	SIZE
CARPINUS BETULUS 'FASTIGIATA'	EUROPEAN HORNBEAM	2"
ZELKOVA SERRATA	JAPANESE ZELKOVA	2"
PRUNUS EMARGINATA	BITTER CHERRY	1.5"
RHAMNUS PURSHIANA	CASCARA	1.5"



QUANTITY: 7

**SHRUBS**

**LARGE SHRUBS**

SCIENTIFIC NAME	COMMON NAME	SIZE
GAULTHERIA SHALLON	SALAL	5 GAL.



QUANTITY: 32

**SMALL SHRUBS**

SCIENTIFIC NAME	COMMON NAME	SIZE
ARCTOSTAPHYLOS UVA-URSI	KINNIKINICK	2 GAL.



AREA: 385 SF



AREA: 114 SF



AREA: 82 SF

**FORBS/HERBS**

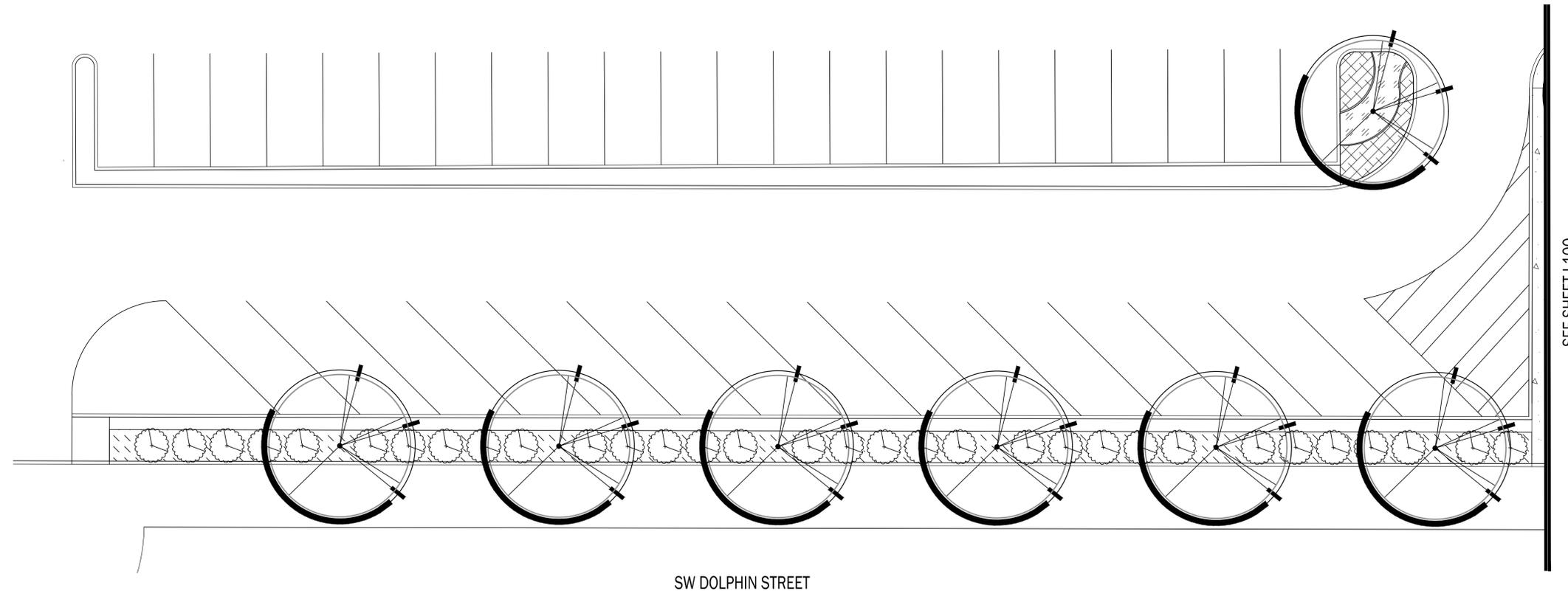
SCIENTIFIC NAME	COMMON NAME	SIZE
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CAMASSIA LEICHTLINII	LARGE CAMAS	1 GAL.
ERIGERON GLAUCUS	BEACH ASTER / FLEABANE	1 GAL.
FRAGARIA CHILOENSIS	BEACH STRAWBERRY	1 GAL.
GALIUM ODORATUM	SWEET WOODRUFF	1 GAL.
LUPINUS LITTORALIS	SEASHORE LUPINE	1 GAL.
THYMUS PSEUDOLANUGINOSUS	WOOLY THYME	1 GAL.

**GRASSES**

SCIENTIFIC NAME	COMMON NAME	SIZE
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DESCHAMPSIA CESPITOSA	OREGON TUFTED HAIR GRASS	1 GAL.
SISYRINCHIUM IDAHOENSE	BLUE-EYED GRASS	1 GAL.

**PLANTING NOTES**

ALL SHRUB BEDS TO RECEIVE GROUND FIR BARK MULCH.



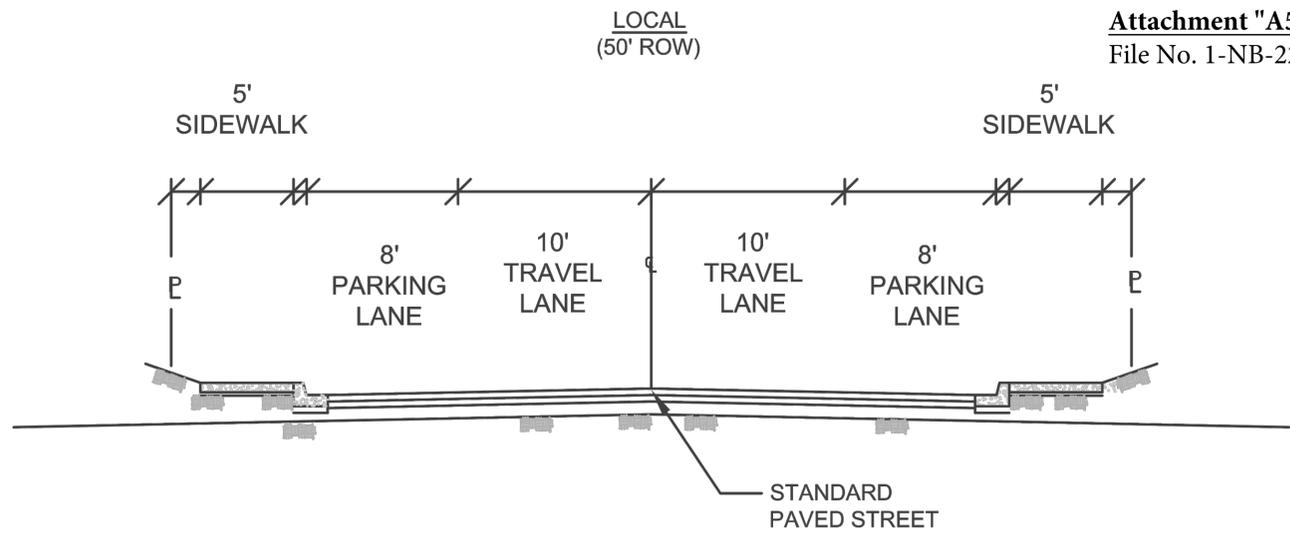
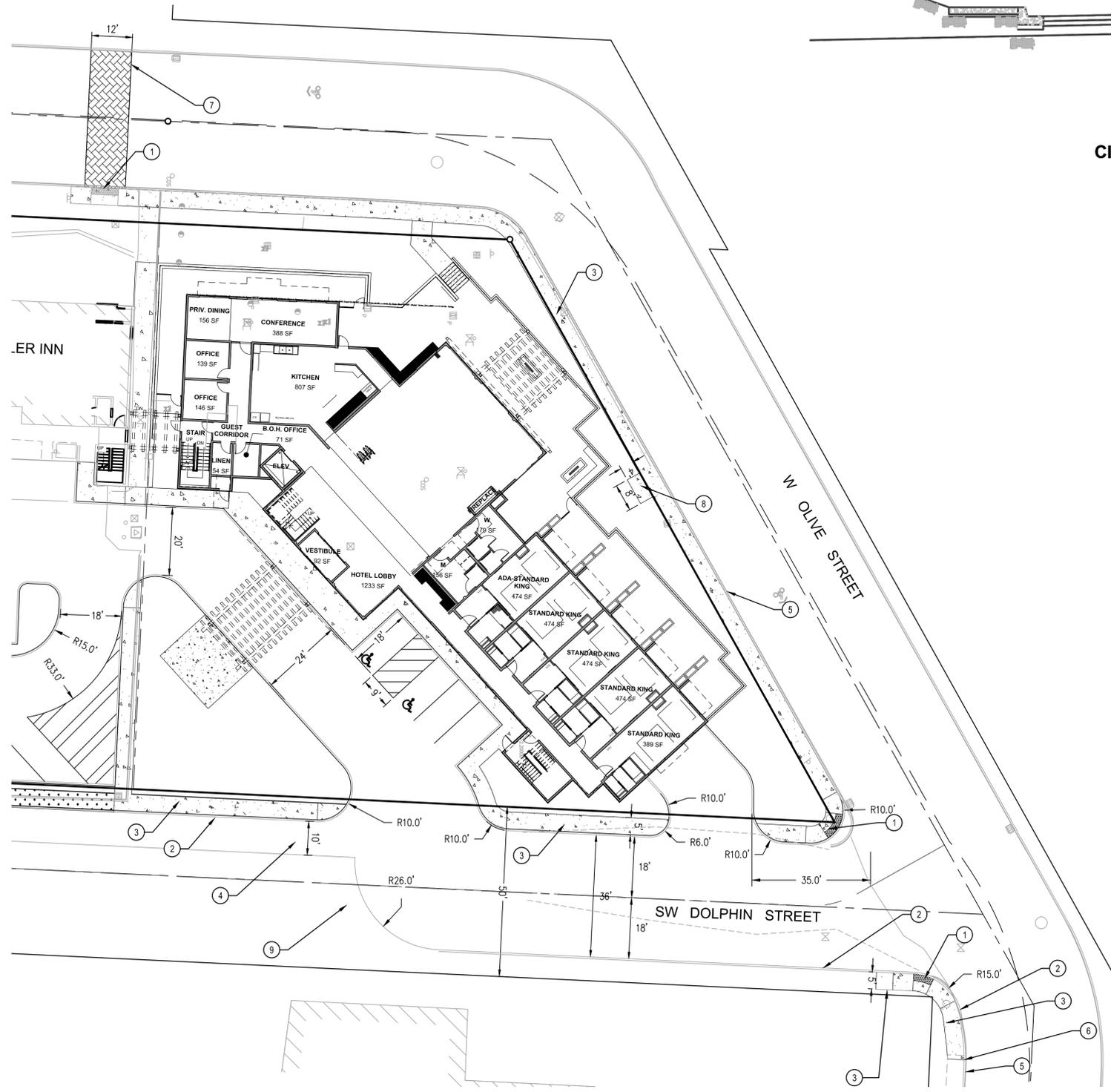
SW DOLPHIN STREET

CONCEPT LANDSCAPE PLAN  
SCALE: 1" = 10'

1  
L101

DATE: 10/04/19	PROJECT: 1803	DRAWN BY: JC	NEWPORT-SITE CONCEPT 1_20 DATA
L101			©

[DATE: 1/17/2022 8:02 PM] [AUTHOR: tyler.ott] [PLOTTER: DWG To PDF.pc3] [STYLE: WHP-Standard.ctb] [PATH: P:\Hallmark Inns and Resorts\229219-C000106.01\Execution\Drawings\Civil\Site Plan-Landuse.dwg] [LAYOUT: Site (2)]

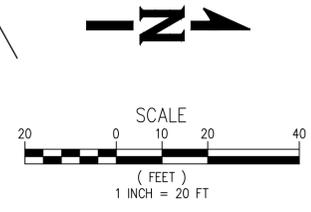
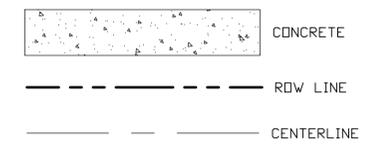


CITY OF NEWPORT TYPICAL ROADWAY LAYOUT (T-052)

CONSTRUCTION NOTES

- ① INSTALL PARALLEL ADA RAMP
- ② INSTALL STANDARD CURB & GUTTER
- ③ INSTALL CONCRETE SIDEWALK
- ④ INSTALL 10' WIDE FIRE ACCESS LANE
- ⑤ EXISTING CURB TO REMAIN
- ⑥ MATCH EXISTING SIDEWALK
- ⑦ PROPOSED PAVER CROSSING
- ⑧ PROPOSED 4' X 8' CONCRETE PAD FOR BENCH
- ⑨ SEE LANDSCAPE PLAN FOR END OF ROAD PLANTINGS

LEGEND



**WHPacific**  
0755 SW Barnes Rd, Suite 300  
Newport, OR 97125  
503.826.0455 Fax: 503.526.0775  
www.whpacific.com

REGISTERED PROFESSIONAL ENGINEER  
81692PE-OR  
No. For Construction  
J. J. O.T.T.  
EXPIRES: 12/31/2020

REVISIONS	NO.	BY	DATE	REMARKS

SHEET INFO		DRAWN		CHECKED		APPROVED		LAST EDIT		PLOT DATE		SUBMITTAL	

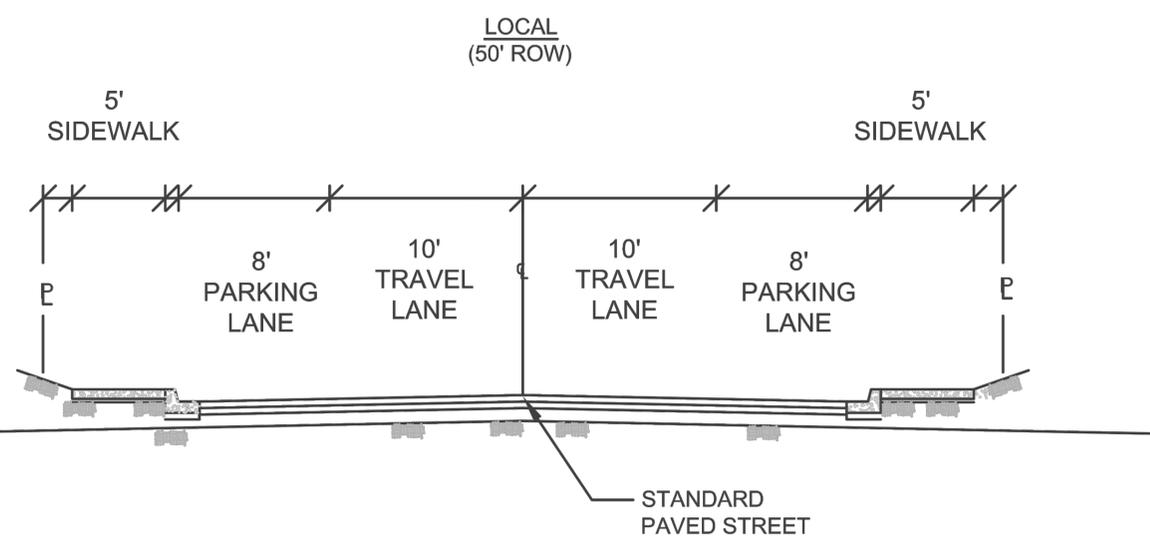
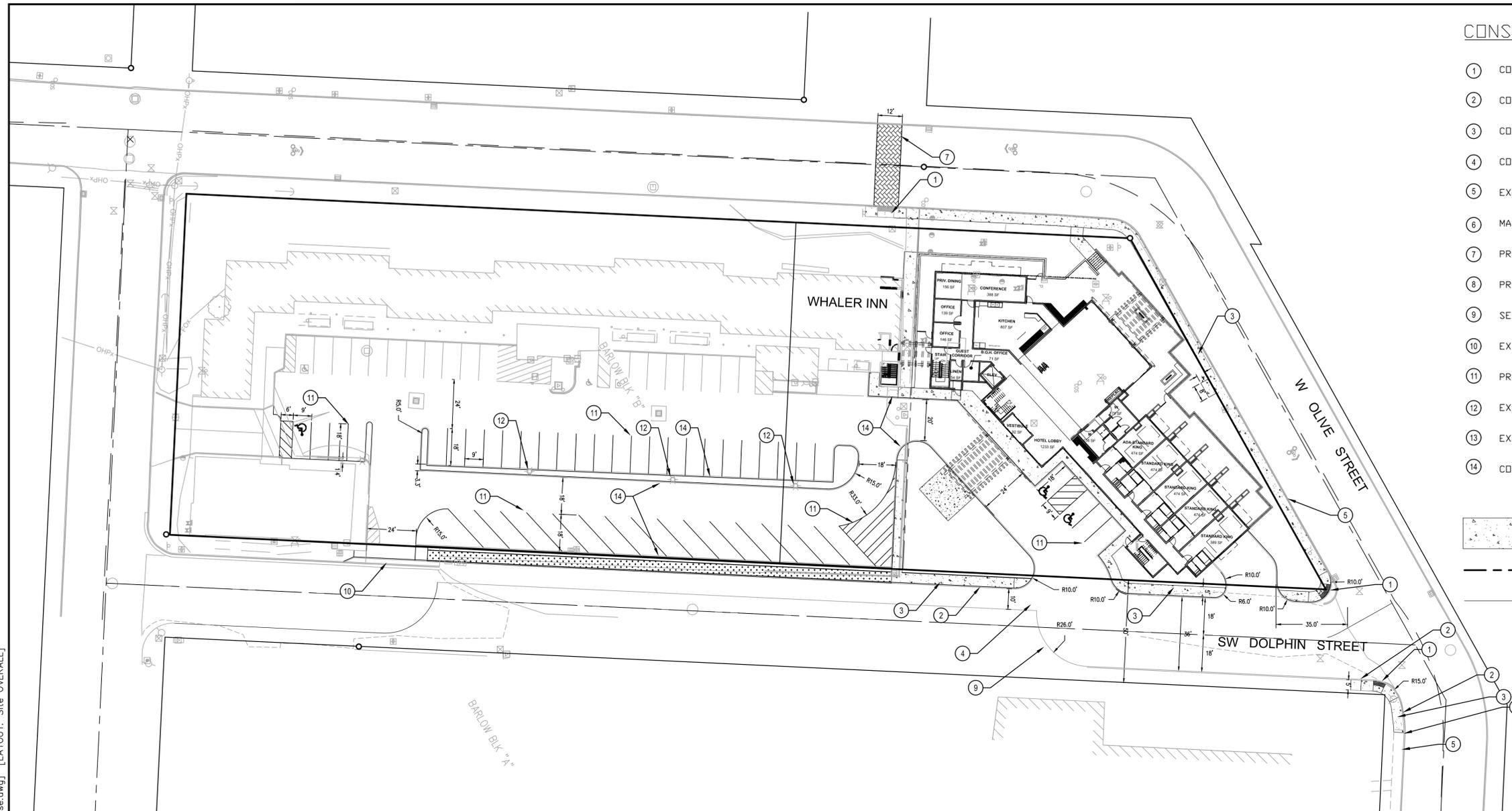
**SITE PLAN**  
**WHALER INN**  
NEWPORT, OREGON  
PROJECT NUMBER 229219  
DRAWING FILE NAME SITE PLAN-LANDUSE  
SCALE 1" = 20'

CONSTRUCTION NOTES

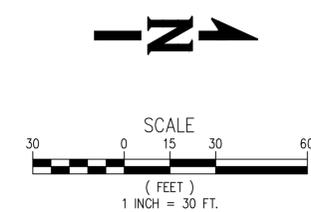
- ① CONSTRUCT PARALLEL ADA RAMP
- ② CONSTRUCT STANDARD CURB & GUTTER
- ③ CONSTRUCT CONCRETE SIDEWALK
- ④ CONSTRUCT 10' WIDE FIRE ACCESS LANE
- ⑤ EXISTING CURB TO REMAIN
- ⑥ MATCH EXISTING SIDEWALK
- ⑦ PROPOSED PAVER CROSSING
- ⑧ PROPOSED 4' X 8' CONCRETE PAD FOR BENCH
- ⑨ SEE LANDSCAPE PLAN FOR END OF ROAD PLANTINGS
- ⑩ EXISTING DRIVEWAY TO BE RECONSTRUCTED
- ⑪ PROPOSED STRIPING
- ⑫ EXISTING LIGHT TO REMAIN
- ⑬ EXISTING STAIRS TO BE REMOVED
- ⑭ CONSTRUCT STANDARD CURB

LEGEND

-  CONCRETE
-  ROW LINE
-  CENTERLINE



CITY OF NEWPORT TYPICAL ROADWAY LAYOUT (T-052)



**WHPacific**  
 0755 SW Barnes Rd, Suite 300  
 Newport, OR 97125  
 503.826.0452 Fax: 503.526.0775  
 www.whpacific.com

REGISTERED PROFESSIONAL ENGINEER  
 81692PE-OR  
 No. 1711  
 J. J. OTT  
 EXPIRES: 12/31/2020

NO.	BY	DATE	REMARKS

SHEET INFO	
DRAWN	EDL
CHECKED	TJO
APPROVED	TJO
LAST EDIT	1/17/2022
PLOT DATE	1/17/2022
SUBMITTAL	

**SITE PLAN**  
**WHALER INN**  
 NEWPORT, OREGON  
 PROJECT NUMBER 229219  
 DRAWING FILE NAME SITE PLAN-LANDUSE  
 SCALE 1" = 20'

DATE: 1/17/2022 8:01 PM [AUTHOR: tyler.ott] [PLOTTER: DWG To PDF.pc3] [STYLE: WHP-Standard.ctb] [PATH: P:\Hallmark Inns and Resorts\229219-C000106.01\Execution\Drawings\Civil\Site Plan-landuse.dwg] [LAYOUT: Site OVERALL]

**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF NEWPORT,  
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION FILE NO. )  
1-NB-21/2-CUP-21, AN APPLICATION FOR DESIGN REVIEW ) FINAL  
AND CONDITIONAL USE PERMIT APPROVAL FOR "THE ) ORDER  
WHALER AT NYE BEACH," AS SUBMITTED BY RIC RABOURN )  
(HALLMARK INNS & RESORTS (OWNER)) )**

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**ORDER APPROVING DESIGN REVIEW AND A CONDITIONAL USE PERMIT** under the design guidelines for the Historic Nye Beach Design Review District and Conditional Use Permit approval criteria for a 25-guest room hotel with a café, bar, office and lobby space (identified as "The Whaler at Nye Beach"). Two (2) existing single-family dwellings will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property. The subject property is identified on Lincoln County Assessor's Tax Map 11-11-08-BB as Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is 26,000+/- sq. ft. in size.

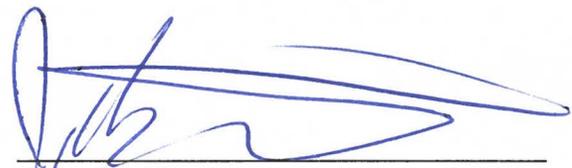
**WHEREAS:**

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Zoning Ordinance (No. 1308, as amended); and
- 2.) The Planning Commission has duly held a public hearing on the request for a design review and conditional use permit, with a public hearing a matter of record of the Planning Commission on April 26, 2021; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence, including testimony and evidence on behalf of the applicant, general public, and Community Development Department staff; and
- 4.) Upon request by a party to the proceeding, the Commission provided an open record period before concluding its deliberations on May 24, 2021; and
- 5.) At the conclusion of said deliberations, after consideration and discussion, the Planning Commission, upon a motion duly seconded, **APPROVED** the request for a design review and conditional use permit.

**THEREFORE, LET IT BE RESOLVED** by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the request with the following condition(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.
2. Applicant/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.
5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A-2." All required public improvements shall be completed prior to occupancy.
6. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.

Accepted and approved this 24<sup>th</sup> day of May, 2021.



James Patrick, Chair  
Newport Planning Commission

Attest:



Derrick I. Tokos, AICP  
Community Development Director

## EXHIBIT "A"

Case File No. 1-NB-21/2-CUP-21

### FINDINGS OF FACT

1. This application for design review and conditional use permit approval within the Historic Nye Beach Design Review District involves a 25-guest room hotel with a café, bar, office and lobby space (identified as "The Whaler at Nye Beach"). Two (2) existing single-family dwellings will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property.

2. Ric Rabourn, 5 Centerpointe Dr., Suite 590, Lake Oswego, OR 97035 (Hallmark Inns & Resorts (owner)) submitted an application on April 2, 2021. The application was deemed complete on the date that it was submitted.

3. The subject property is identified on Lincoln County Assessor's Tax Map 11-11-08-BB, Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St). The site is roughly 26,000 sq. ft. in size.

4. Staff reports the following facts:

- a) Plan Designation: Commercial
- b) Zone Designation: C-2/HNBO/"Tourist Commercial (Historic Nye Beach Design Review District (HNBO))".
- c) Surrounding Land Uses: Don and Ann Davis Park to the west, the Newport Performing Arts Center to the east, Whaler Motel to the south and Don and Ann Davis Park and Pacific Kitchen at Nye Beach (affiliated with Hallmark Inns) to the north.
- d) Existing Structures: Two-existing single-family residences operated as vacation rental dwellings.
- e) Utilities: All are available to the site.
- f) Development Constraints: Tsunami Hazards Overlay Zone.
- g) Past Land Use Actions: File No. 2-TEP-05, dated 3/24/05, at 39 SW Elizabeth Street. Authorized installation of retaining walls within the public road right-of-way.

5. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on April 6, 2021, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice

required that written comments on the application be submitted by 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on April 16, 2021. As of April 20, 2021, one comment was received from Robin Beckwith who resides in a home southeast of the proposed development (Attachment "H"). The applicant also held a voluntary neighborhood meeting on April 22, 2021 to solicit feedback from individuals living and working in the surrounding area.

6. A Planning Staff Report on the application was prepared for the Planning Commission and was available to the public on April 22, 2021. The Planning Staff Report and attachments are hereby incorporated by reference into the findings. The Planning Staff Report attachments included the following:

- Attachment "A" – Application Form
- Attachment "A-1" – Applicant's Narrative
- Attachment "A-2" – Building Plans and Elevation Drawings of the Proposed Addition \*
- Attachment "A-3" – Invitation to Neighborhood Meeting (Optional, Applicant Initiated)
- Attachment "B" – Public Hearing Notice
- Attachment "C" – Zoning Map of HNBO
- Attachment "D" – Aerial Map of Property Showing Utilities
- Attachment "E" – Aerial Map Showing Tsunami Hazard Overlay Zone
- Attachment "F" – HNBO Design Review Guidelines and Standards
- Attachment "G" – HNBO Design Review Glossary and Illustrations
- Attachment "H" – Email from Robin Beckwith, dated 4/10/21

\* Note: Reduced for copying purposes. Full size plans were available online at: <https://www.newportoregon.gov/dept/cdd/default.asp> or at the Community Development Department.

7. The Planning Commission received and reviewed written comment from the individuals listed below after the Planning Staff Report was prepared. Their testimony is hereby incorporated by reference into the findings:

- Email from Norm Ferber, dated 4/22/21
- Email and letter from Jan Kaplan, dated 4/26/21
- Email from Wendy Engler, dated 4/26/21
- Letter from Oregon Shores Conservation Coalition. Dated 4/26/21

8. At its April 26, 2021 meeting, the Planning Commission held a public hearing and took testimony on the application. Chair Patrick asked for declarations of ex-parte contact, bias, or conflict of interest. No challenges to the jurisdiction of the Commission were made. The minutes of the April 26, 2021 hearing are hereby incorporated by reference into the findings.

9. The following individuals testified in person during the course of the public hearing: Ric Rabourn, Hallmark Inns & Suites (applicant), Michael Abbott, Architect (applicant's representative), Wendy Engler, Jan Kaplan, Tim Emery, and Catherine Briggs. A summary of their testimony is included in the hearing minutes.

10. In their written testimony, the Oregon Shores Conservation Coalition requested the Planning Commission leave the record open to allow for the submission of additional evidence, argument, or testimony. When such requests are received the Planning Commission is obligated to continue the hearing for at least seven days pursuant to NMC 14.52.090(D) and ORS 197.763(6). After taking testimony, the Commission closed the public hearing and continued its deliberations to May 24, 2021. The Commission further provided that written testimony would be accepted for seven (7) days (i.e. until 5:00pm on May 3, 2021), followed by a seven (7) day rebuttal period where responses to the new testimony would be accepted, and an additional seven (7) days for applicant's final argument. No new testimony was received by the 5:00pm May 3, 2021 deadline. The applicant chose to use their final argument as an opportunity to address conditions recommended in the staff report. This consisted of the following information, which is incorporated by reference into the findings.

- Email from Michael Abbott summarizing the plan revisions, dated 5/17/21
- Updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21

11. The applicant is seeking design review and conditional use permit approval to construct a 25-unit hotel with a common area, office, and food services. The project is identified as "The Whaler at Nye Beach." The property is situated immediately north of the existing Whaler Hotel. Two existing single-family residences, operated as vacation rentals, will be removed. The new hotel will have a footprint of close to 10,000 square feet. It is designed as a three-story, multi-sectional structure with a below grade parking garage. The hotel will have a total finished floor area of 25,669 square feet. Mechanical equipment will be housed in the parking garage, which along with 29 parking spaces and a parking lobby encompass an additional 11,110 square feet. Three (3) at-grade ADA accessible parking spaces will be provided adjacent to the hotels main entrance, internal to the property. Vehicle access is available from SW Dolphin Street with an initial driveway access to the parking garage and an at-grade driveway that connects with the existing Whaler Hotel parking lot.

Guestrooms face northwest and west, across Olive and Elizabeth Streets and Don and Ann Davis Park. New sidewalk will be constructed along the south side of Olive and east side of Elizabeth Street, with a new mid-block crosswalk to align with the pathway entrance to the Park. A crosswalk will also be constructed at the intersection of SW Dolphin Street and Olive. The perimeter of the property will be landscaped and a veranda for a main floor café is incorporated between the building and street, with connections to pedestrian paths. Upper floor units include decks. The main roof of the building sections is at a 6:12 pitch, broken up with dormers at a more gradual 3:12 pitch. The peak height of the building is 40-feet from finished grade. The building is composed of three sections. Its southern component is roughly 55-ft x 40-ft in size and is oriented in an east-west fashion. This portion of the hotel includes eight (8) guestrooms, a kitchen, and office space. The middle component of the hotel is approximately 45-ft x 72-ft in size, with a northwesterly to southeasterly orientation. This area includes the hotel lobby, living room, fireplace, with a second-floor library loft and two (2) large guestroom suites on the third floor. The northern component of the hotel is 90-ft x 40-ft in size, and is positioned in a northeasterly to southwesterly orientation. This portion of the hotel includes 15 guest rooms and a main floor bar. A site plan and architectural elevations illustrating the proposed improvements is enclosed as Attachment "A-2".

12. The proposed project requires design review and conditional use permit approval by the Planning Commission because the building exceeds 35-ft in height and 65-ft in length, which is the limit that can be approved ministerially by staff under the design standards (NMC 14.30.060(B)(1)). Since the Planning Commission is the designated approval body, a Type III review is required (NMC 14.52.030(B)). A Type III Conditional Use Permit is also required because the hotel is a commercial use that exceeds 2,000 square feet of gross floor area (NMC 14.30.090(A)(1)). To obtain design review approval the applicant must demonstrate that the proposed development is consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030. Criteria for the conditional use permit are found in NMC Section 14.34.050.

## CONCLUSIONS

1. With regard to guidelines established for the Historic Nye Beach Design Review Overlay District for approving the design review request, the Planning Commission makes the following conclusions:

### A.) *Design Guideline 1: Contextually-Appropriate Design*

*Intent: For residential development, the architectural heritage of the Nye Beach area - as documented in historical photos and drawings or by photographs presented in support of the development - shall be maintained.*

#### *Approaches:*

- *New development should utilize roof types common to the district, such as steep pitched gable, multiple lower pitched gable, or hip.*
- *New development should include in the design common main facade elements (such as porches, verandas, sunrooms and/or other architectural/design features as identified in the design standards or as documented to exist within the design review district).*
- *Buildings shall feature variety in building shape, height, roof lines, setbacks, and design features consistent with the design guidelines.*
- *For multiple family development (greater than 2 units), trash collection areas shall be screened.*

*Reference: Illustrations #2, #3, #4, #5, and #7.*

i.) This guideline applies to residential development, and is not applicable to the project.

ii.) Considering the above, the Commission concludes that this guideline has been met.

### B.) *Design Guideline 2: Building Scale*

*Intent: Commercial building elements oriented towards a public or private street shall incorporate specific elements that contribute to the established scale of the district and support an active streetscape.*

**Approaches:**

- *Commercial buildings (excluding portions of a hotel/motel where guest rooms are on the ground floor) shall support retail visibility and appropriate district scale by utilizing banks of windows with multiple small windows (less than 20 square feet) and/or large windows with multiple panes along all sides abutting a public right-of-way.*
- *The contextual scale of new large commercial buildings over two stories shall be reduced by using horizontal or vertical divisions and stepped roof lines.*
- *Buildings greater than one story in height shall be designed with canopies, balconies, offsets in the building facade along each public right-of-way, or other architectural/design features that reduce the building's vertical emphasis.*
- *Buildings greater than 2 stories, and/or longer than forty feet (40') shall include two or more of the following elements to break down the scale of the building:*
  - o *A significant offset (3' minimum depth, 8' minimum width) in the full building massing (Illustration # 10).*
  - o *A step-back (6' minimum) of floors above the second floor.*
  - o *Subdivision into a series of distinct building masses, articulated as separate structures.*
  - o *Multiple ground floor entries at 30' maximum spacing.*

**Reference:** Illustrations #6, # 7 and #8.

i.) The hotel building has a contextual scale by incorporation of horizontal and vertical divisions including multiple stepped roof lines. The overall building massing has been designed to break apart multiple forms along the elevations and plan. The strategy of breaking the building into three separate building forms with independent gable roofs achieves the massing breakdown necessary to establish scale with the district. The hotel building also utilizes canopies and balconies along the public right of way. The hotel building incorporates a public oriented central café veranda to further support an active streetscape along Elizabeth & Olive Streets. This central veranda has two pathways from the sidewalk and will encourage public use for café seating.

ii.) The applicant's architectural elevations illustrate how this design guideline has been satisfied (Sheets A201 – A205, Attachment "A-2"). Large multi-pane windows have been incorporated into ground floor elevations abutting public rights-of-way even though portions of the structure are exempt from that requirement because they include guestrooms on the ground floor. The applicant notes that they have reduced the contextual scale of the building by varying the roof line across three distinct segments of the structure and by incorporating into the design multiple, stepped roof lines. Balconies have been incorporated where the building faces public rights-of-way and the structure is subdivided into distinct building masses with significant off-sets to reduce massing.

iii.) Considering the above, the Commission concludes that this guideline has been met.

**C.) Design Guideline 3: Roof Design**

**Intent:** *Roofs should have similar configuration and character to historic styles in the district.*

**Approaches:**

- *Roof slopes on commercial projects shall be between 5:12 and 12:12 unless there is a flat roof with parapet.*
- *Mechanical equipment shall be screened and integrated into the roof design.*
- *Roof shapes shall be consistent with traditional styles found in the neighborhood.*
- *A standing seam is recommended for metal roofs.*
- *Gable and hip roof forms are recommended.*
- *Parapet walls shall be integrated into the building.*

**Reference:** Illustrations #2, #5, #6 and #7

i.) The hotel roof plan (Sheet A104, Attachment "A-2") shows the main roof as 6:12 in pitch with multiple dormer breaks. Some lower roofs are treated with roof parapets to help give the building a smaller massing effect. All mechanical equipment will be located in non-rooftop locations within the building forms. Roof configuration is that of a traditional gable with multiple dormers. The gable ends break into smaller forms and cross-gables to further reduce the scale of the roof. Parapet walls are integrated into the building and are strategically located to break up the massing of the overall building form.

ii.) As noted by the applicant, the 6:12 gable roof pitch is common in Nye Beach and within the slope range that is permitted. Mechanical equipment will be housed below the structure (Sheet A105, Attachment "A-2"). Further, parapet walls are integrated into the design as an accent.

iii.) Considering the above, the Commission concludes that this guideline has been met.

**D.) Design Guideline 4: Commercial Buildings Define Continuous Street Edge**

**Intent:** Support safe and "walkable" streets by creating a traditional town pattern of commercial buildings lining public streets. Create high visibility between commercial interiors and public ways.

**Approaches:**

- *In commercial areas, commercial buildings shall abut the front property line. Allowable exceptions to the requirement to abut the front property line include areas where the existing buildings adjacent to the property are set back from the property line, where a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included, or where severe topography or an easement precludes the building abutting the front property line.*
- *Commercial buildings shall abut a side yard property line where possible except to allow access for parking or fire egress, the side abuts a zoning district which requires a side yard, or a setback is required for ocean front lots.*
- *Separation between building walls at the street level shall be avoided except for pedestrian and parking access, or a pedestrian oriented feature such as a courtyard, patio, landscaped area with seating or outdoor cafe seating is included.*
- *Front and side yard setbacks, where they exist, shall be fully landscaped or shall provide a pedestrian oriented feature as described previously.*

- *On commercial, institutional, public, and multiple family residential (with three or more units) buildings, a primary entrance to the building shall face the frontage street. Entries from off-street parking lots shall not be made more prominent than the entrance from the street.*
- *Trash collection areas shall be screened.*

i.) The hotel building abuts the front property line along Elizabeth & Olive Streets. The incorporation of a patio/veranda directly engages with the pedestrian sidewalk along the street edges. The hotel incorporates a central veranda that has direct pedestrian access from the sidewalks along both Elizabeth & Olive Streets. This central veranda will incorporate café seating and a firepit feature to enhance the community experience upon walking past and/or arrival. The hotel yard along the south elevation includes a new ‘accessible’ pedestrian walkway that connects the east side of the property to the street. The addition of a pedestrian crosswalk further connects to Don Davis Park across Elizabeth Street. The hotel yard along Dolphin Street has incorporated improved pedestrian access via a sidewalk. Portions of this yard are utilized for parking access to the sub-building garage and vehicle access to the hotel porte-cochere entry. All yards are fully landscaped including pedestrian lighting. Trash collections for the hotel building will be incorporated into the sub-building garage area out of view from the exterior.

ii.) This guideline requires commercial buildings abut front property lines. An exception is provided where a pedestrian oriented feature is incorporated between the front lot line and building. This includes courtyards, patios and outdoor café seating. The applicant has incorporated a patio/veranda with café seating between the building and front lot lines along SW Elizabeth and W Olive Streets in keeping with this requirement (Sheet A100, Attachment "A-2"). A corner of the building abuts SW Dolphin Street, which is also a front lot line. As noted by the applicant, where there is a separation between the existing Whaler Hotel and new development, a pedestrian walkway has been incorporated to enhance connectivity. Entrances to the hotel lobby face SW Dolphin Street and West Olive Street. Trash collection will be located in the sub-grade garage so that it is screened from view from public areas by the new building. The applicant’s site plan (Sheet A100) illustrates that the setback areas will be fully landscaped.

**E.) *Design Guideline 5: Consistency with Predominant Styles and Features***

*Intent: Buildings shall generally be compatible in design and appearance with other buildings in close proximity by including similar types of architectural features and materials.*

***Approaches:***

- *Proposed buildings shall include design features that are consistent with the design standards and are similar in nature to buildings in direct proximity to the site.*
- *Where the surrounding buildings predominately do not include architectural features found in the design standards, the proposed building subject to design review shall include architectural features that are common to the district as identified in the design standards or by findings documenting similar architectural features found within the design review district.*

- *Where the surrounding buildings predominately do not include architectural features found in the design standards or in the design review district, innovation and creativity in design may be allowed consistent with the design guidelines.*
- *In keeping with traditional styles, where a transition is made in the building's siding material, the transition should occur at an inside corner, rather than an outside corner.*

**Reference:** Illustrations # 7, #8, and #11

i.) The hotel building utilizes traditional building forms such as gable roofs, cross gable features and multiple dormers. The hotel building features the traditional design strategy of 'base, middle and top' along the elevations. Along the street edge a building 'base' is in the form of a solid stone wall supporting the patio/veranda and central café veranda. The building 'middle' is made up of the first-floor walls that separates from the upper hotel floors by use of a siding material and color break along with traditional trim feature at floor level. The building 'top' 2 floors is then made up of traditional shake siding which further breaks the building into smaller forms found within the design district. See exterior elevations on Sheet A205. The primary building materials used are those found around the district including: Stone, Cedar horizontal plank siding (clear) and cedar shake (charcoal grey). The roof will be an architectural comp roof in black oak. See finish samples on Sheet A205. The hotel window fenestration is composed of traditional vertical and square oriented windows. Larger windows along the middle public spaces of the hotel have been broken down by mullions to also fit with the scale of the district. Windows and doors will be traditionally trimmed in wide casement to also fit within the traditional detailing of northwest coastal architecture. The hotel will also feature timber trellising at entryways and above the central café veranda. The timber will be stained with a tint similar to local buildings. See exterior elevation sheets A201 – A205 for graphic representation of all of the above strategies.

ii.) The applicant's narrative, site plan (Sheet A100, Attachment "A-2") and architectural elevation Sheets A201 – A205 illustrate that the new hotel building has been designed in a manner that incorporates architectural features common to the district as required by this guideline.

iii.) Considering the above, the Commission concludes that this guideline has been met.

**F.) Design Guideline 6: Parking Orientation and Building Form**

*Intent: For commercial and multiple family residential (greater than 2 dwelling units) projects, the building massing shall not be shaped by off-street parking. Building massing should generally take traditional forms that are observed in the district, the historical record of Nye Beach, or that can be demonstrated to be consistent with the dominant architectural styles of the district.*

**Approaches:**

*On-site parking shall be at the rear or side of the building or below street grade underneath the building with access via alleys or interior streets unless, based on review of the project, the review authority determines that topography such as steep slopes precludes side or rear*

*parking. Parking garages shall utilize similar architectural details as the main building. Shared parking facilities are allowed and are encouraged. Views of parking areas from adjacent residential and commercial uses shall be screened through the use of landscaping and/or fencing. Pedestrian paths shall be clearly defined. Textured pavings are preferred over painted stripes for defining walkways.*

**Reference:** *Illustrations #6 and #9.*

i.) The hotel building primary orientation is towards the street frontages of Elizabeth and Olive Streets. The hotel incorporates a central café veranda that engages with pedestrian sidewalks along both streets. The street side of the hotel will have this entrance as secondary to guest to hotel but primary to a passing pedestrian. The primary hotel guest entry will be along the porte-cochere side of the building for a more traditional hotel guest experience. The porte-cochere entry is directly engaged with the public street side by use of direct site lines through the interior lobby of the hotel. This will further enhance the hotel guest experience by direct building engagement to the public street and Nye Beach beyond. The hotel incorporates a sub-building garage which eliminates the impact of onsite surface parking. This strategy benefits the hotel guests and keeps the pedestrian oriented feel of this property from views from the Nye Beach district. See 'Architectural Site Plan' on Sheet A100 for locations of above.

ii.) Off-street parking is provided in a below grade garage except as required to conform with ADA requirements, and landscaping is proposed such that the entrance to the parking garage will be screened from view (particularly as the landscaping matures). Textured pavings are preferred over painted stripes for defining walkways. The crosswalks at Cliff /Olive Streets and Coast/Olive Streets are an example of the textured walkways used in the district. The applicant's amended Architectural Plans identify that they are prepared to install textured crosswalks to align with these examples and the Commission agrees that such a change is conforms with the guidelines.

iii.) Considering the above, the Commission concludes that this guideline has been met.

**G.) *Design Guideline 7: Connected Pedestrian Network***

***Intent:*** *Maintain and reinforce the walking environment of Nye Beach with a network of public sidewalks and private paths.*

***Approaches:***

- *For commercial projects, provide pedestrian paths to create linkages between adjoining public and private spaces.*
- *Circulation routes shall be continuous and integrated into the larger pedestrian circulation network.*
- *Specialty paving is encouraged.*

**Reference:** *Illustrations #6 and #9.*

i.) This hotel project will reinforce the pedestrian network by adding new public sidewalks along the street edges of Elizabeth and Olive Streets. The development will also be adding two new public crosswalks from the sidewalks to create a new connection to Nye Beach district and Don Davis park. Further pedestrian enhancement will be extension of the sidewalk to the performing arts center at the East side of the property. Pedestrians will also be able to engage the public street of the hotel by the addition of an accessible pathway along the South edge of the building. New sidewalks on both sides of Dolphin street will give further access around all sides of the new hotel building. Pedestrian pathways have been incorporated along all sides of the hotel building to create a safe human scale feel to the site. See 'Architectural Site Plan' on Sheet A100 for locations of above.

ii.) The applicant's site plan (Sheet A100, Attachment "A-2") illustrates how integrated pedestrian pathways will be constructed in both the public and private space. Like the previous guideline, use of specialty paving is encouraged, and the applicant's updated building plans and elevation drawings illustrate that the veranda, walkways and porte-cochere will be treated with stamped concrete pavers. The Commission concurs that this type of treatment is consistent with the guideline. New public sidewalk along W Olive, SW Elizabeth, and SW Dolphin Streets will be concrete, consistent with the City's sidewalk standards (WHPacific Sheet, Attachment "A-2").

iii.) Considering the above, the Commission concludes that this guideline has been met.

#### H.) *Design Guideline 8: Exterior Lighting and Glare Avoidance*

*Intent: Provide a well-lit public environment, while minimizing the incidence of glare.*

##### **Approaches:**

- *Exterior permanent lighting for commercial projects shall be restrained by using lighting features that minimize the impact of lighting such as full-cut off fixtures, low wattage bulbs, and/or recessed or shielded lighting, such that no direct glare occurs onto public right-of-way or adjacent property.*
- *Where building-mounted lighting – wall sconces, awning-mounted downlights, etc. - is used to illuminate an adjacent public sidewalk, the lighting source itself should be recessed or screened to avoid uplight and glare. Targeted uplighting may be used to draw attention to a specific design element provided it is directed at that feature.*
- *Areas used extensively at night shall only be illuminated to the extent necessary for safety and security.*
- *On-site lighting shall be related to the site and retained on the site by directing the light downward, recessing the light, and/or shielding the light. Lighting fixtures shall complement the architectural character of the building.*
- *If landscape lighting is used, the landscape lighting shall be restrained by using lighting techniques (i.e. recessing the light, shielding the light, using low wattage bulbs) that minimize the impact of light.*
- *The use of light poles similar in appearance to the light poles installed as part of the Nye Beach Streetscape Project is acceptable for parking lot lighting and other lighting for which a light pole is used.*

i.) The hotel site lighting design considers a well-lit, warm and welcoming feel. The hotel site lighting fixtures have been carefully selected as no-glare and/or dark-sky compliant. See drawing Sheet L200 for lighting locations and types.

ii.) Building mounted and accent lighting options shown on Sheet L200, Attachment "A-2" are shielded and/or recessed consistent with the guideline requirements and are oriented such that they will not direct glare onto public rights-of-way or adjacent property. No light poles are proposed; however, a pole(s) may be needed for safety purposes, particularly at the intersection of SW Dolphin and Olive Streets. The guideline calls for light poles to match the Nye Beach Streetscape Project, which in this case would be acorn style lighting, the nearest example of which is at Cliff and Olive Streets. The applicant has added a detail to their plan set for this type of lighting, and the Commission agrees that such lighting should be installed where needed for safety purposes.

iii.) Considering the above, the Commission concludes that this guideline has been met.

**I.) *Design Guideline 9: Requirements for solar access***

***Intent: Ensure new development projects do not excessively shade neighboring properties.***

***Approaches:***

- *Commercial and multi-family buildings shall be massed to avoid casting a direct shadow onto the public sidewalk across a bordering street.*
- *The third story on a commercial or multi-family building shall be stepped back to minimize shadowing of adjoining properties.*
- *Solar impacts shall be assessed for the following times*
  - o *Time of year: between February 21 and October 21*
  - o *Time of day: between 10:00 am and 2:00 pm*
- *Projects of greater than 2 stories shall submit a simple solar shading sketch that shows conformance with this standard.*

***Reference: Illustration #12.***

i.) The hotel building sits by itself across from neighboring Nye Beach properties and buildings. Mid-day shade on neighboring buildings does not exist. The hotel building will only shade public sidewalks to the West and North along Elizabeth and Olive Streets at mid-day during fall to spring. See the attached graphic analysis of building shading at public sidewalks during Summer Solstice, Spring and Fall Equinox at the Noon hour (3 graphic pages attached).

ii.) The three graphics referenced by the applicant are included in the last three pages of their narrative (Attachment "A-1"). They demonstrate that the shadow patterns attributed to the three-story hotel building will not extend so far that they would shadow walkways on the far side of a bordering street nor will they impact neighboring properties.

iii.) Considering the above, the Commission concludes that this guideline has been met.

2. With regard to the criteria for approving a Conditional Use Permit, the Planning Commission makes the following conclusions:

*A.) NMC 14.35.050(A), Criteria for Approval of a Conditional Use Permit, the public facilities can adequately accommodate the proposed use.*

i.) Public facilities include city water sewer and street services. City water service is available via 8-inch lines located within W Olive Street, a portion of SW Elizabeth Street, and SW Dolphin Street. A fire hydrant is in place at the east corner of the intersection of W Olive and SW Dolphin Street, proximate to the development site. Wastewater service is available via 8-inch gravity mains along SW Elizabeth Street, W Olive Street, and SW Dolphin Street, although the main in SW Dolphin Street would need to be extended north for it to be a viable option. A structured storm drainage system is in place along W Olive Street and SW Elizabeth Streets. The location of the utilities is depicted on an aerial map of the project site (Attachment "D").

ii.) Street access is available to the property by way of an extension of underdeveloped SW Dolphins Street and the applicant's site plan shows how that could be accomplished (Sheet A100, Attachment "A-2"). The applicant's development generates sufficient traffic that there may be justification in requiring they contribute toward the construction of SW Dolphin as a through street. The city owns much of the property on the east side of the undeveloped street, and a proportional, joint funding agreement would need to be worked out for the connection to become a reality. Terrain constraints are another consideration. The applicant/owner and City are in discussions regarding what a through street design would look like and how to equitably pay for its construction. That issue need not be resolved with this permit. The bar for conditional use approval is that public facilities can adequately accommodate the proposed use. With respect to water, sewer, and stormwater services, there are ample connection points to serve the development. For streets, the SW Dolphin Street right-of-way is available to meet the developments needs and it can be improved to adequately accommodate the proposed use. The developer is responsible for improving the street in a manner that is roughly proportional to the impact of the project and a condition of approval to that effect has been incorporated into the decision.

iii.) Considering the above, the Commission concludes that this standard has been met.

*B.) NMC 14.35.050(B), the request complies with the requirements of the underlying zone or overlay zone.*

i.) The underlying zone that the subject property is located in is a C-2/"Tourist Commercial" District. Overlay zones that apply to the property include the Historic Nye Beach Design Review District (HNBO) and the Tsunami Hazards Overlay Zone (Attachments "C" and "E"). Compliance with HNBO requirements is addressed with the design guideline analysis above.

ii.) The C-2 district has a zero-lot line setback, with a lot coverage allowance of up to 85% of the parcel size. The minimum parcel size is 5,000 square feet (3,000 sq. ft. in the HNBO), the maximum building height is 50-feet, and the density limit for hotels/motels is 750 square

feet of land area per unit. These density and dimensional standards are listed in Table "A," NMC 14.11.010 and NMC 14.13.010. A requirement of 50 sq. ft. of patio space per hotel unit is met with the proposed veranda (NMC 14.11.020). The applicant's site plan and architectural elevations illustrate how these standards are being satisfied (Attachment "A-2").

iii.) Off-street parking standards for hotel/motel units is one space per unit, plus a space for the manager, meaning 26 spaces are required (NMC 14.14.030(25)). Two of the spaces must be ADA compliant, with one being van accessible with an access isle (NMC 14.14.050). The HNBO allows new development to claim an on-street parking credit that reduces the number of required off-street parking spaces by one space for every on-street space abutting the property, with some limitations (NMC 14.30.100(A)(6)). The applicant is not pursuing an on-street parking credit, even though a credit could be an option along SW Elizabeth Street. The applicant's revised plans show 27 off-street spaces in a below grade garage. Three additional ADA spaces are shown outside the building, near the entrance to the lobby. As drawn, the applicant is showing exactly 40% of the total spaces as compact, which is the maximum percentage that the City will allow (NMC 14.14.060). Given the above, the Commission has sufficient evidence before it to conclude that it is feasible the applicant can meet the parking standards.

iv.) A total of 10% of the lot area is required to be landscaped with an emphasis on it being placed along a street or other property frontage. The applicant's landscaping plan (Sheet L100, Attachment "A-2") illustrates how this standard is being met.

v.) The Tsunami Hazard Overlay Zone requires commercial development provide all weather pedestrian access from the buildings to adjacent public rights-of-way, and the applicant's site plan illustrates how pedestrian linkages, both external and internal to the property, will be enhanced with this development (Sheet A100, Attachment "A-2"). Developments must also provide wayfinding signage in a format and location approved by the City and they must place emergency evacuation information in common areas to alert employees and guests to the tsunami threat. The applicant, with their resubmittal, has expressed a willingness to address these requirements and it is appropriate that conditions of approval be imposed to ensure that they are implemented.

vi.) Considering the above, the Commission concludes that this standard has been met.

*C.) NMC 14.35.050(C), the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval. For the purpose of this criterion, "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality.*

i.) There are a number of hotels in the vicinity of the subject site, including the existing Whaler Hotel, the Elizabeth Street Inn, and Shilo Inns. It is reasonable to rely upon the presence of such uses to conclude that the proposed hotel will not have adverse impacts greater than existing uses in the area relative to noise, dust, air quality, etc. SW Elizabeth and W Olive Streets are collector roadways designed to handle large volumes of vehicle traffic, and the applicant site plan (Sheet A100, Attachment "A-2") illustrates how they will

be improving pedestrian mobility as a result of the project. SW Dolphin Street will need to be improved by the applicant to accommodate the planned development and the applicant's plans serve as evidence that they are prepared to make a substantial investment in the roadway. Further, as previously noted, a condition requiring the applicant/owner improve the street commensurate to the impact of the project will ensure that this standard is met.

vi.) Considering the above, the Commission concludes that this standard has been met.

*D.) NMC 14.35.050(D), a proposed building or building modification is consistent with the overall development character of the area with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.*

i.) In evaluating the application for compliance with this standard, the Planning Commission considered existing and potential development that can occur in Nye Beach. This parcel is situated at the far southwest corner of the HNBO, bordered by the existing Whaler Hotel to the south, which is just outside of the overlay, and the Newport Performing Arts Center to the east, which is inside the HNBO but was constructed in the late 1980's before the overlay was established. The Performing Arts Center is larger than the proposed development with an average peak height in excess of 46-ft. The existing Whaler Hotel, which is three stories in height, is roughly 35-ft in height and is narrower and more linear than the proposed development.

ii.) The pallette of exterior construction materials is depicted on Sheet A 204, Attachment "A-2" is consistent with what is found on other commercial properties in the district, including the Inn at Nye Beach, which was the last project approved using the design guidelines. That project has a peak height of 47 feet, 3 inches and is more linear than the proposed development, in part because the design guidelines were updated to require that large buildings be segmented. Other comparable commercial development in the district with respect to size and height include the Sylvia Beach Hotel (also three stories facing the street), the Archway Place mixed use development at 42.25-ft in height, and the three-story commercial property at 107 SW Coast at 39-ft in height.

iii.) Considering the above, the Commission concludes that the proposed building at 40-ft in height, with three distinct building segments that break up its visible mass, is consistent with the overall development character of the area with regard to building size and height.

### OVERALL CONCLUSION

Based on the staff report, the application material, and other evidence and testimony in the record, the Planning Commission concludes that the request complies with the design guidelines established for HNBO design review and conditional use permit approval. The request is; therefore, **APPROVED** subject to the following condition(s).

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the

applicant/property owner to comply with these documents and the limitations of approval described herein.

2. Applicant/owner shall construct concrete textured crosswalks at the mid-block crossing of SW Elizabeth Street, opposite Don and Ann Davis Park, and at the intersection of SW Dolphin Street and W Olive Street, in a manner that is substantially similar to existing crosswalks at Cliff/Olive Streets and Coast/Olive Streets as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
3. Applicant/owner shall incorporate stamped concrete as a specialty paving element into the building plans for the internal pathways, veranda, and porte-cochere as depicted on the updated building plans and elevation drawings by Abbott Architecture, dated 5/17/21.
4. Acorn style light poles shall be installed within public rights-of-way adjoining the subject property for safety and security purposes in locations deemed appropriate by the City Engineer.
5. Applicant/owner shall improve SW Dolphin Street in a manner that conforms with the City of Newport's street standards and is roughly proportional to the impact of the development on the City's transportation system. This may include minor modifications to the scope and nature of the frontage improvements depicted on Attachment "A-2." All required public improvements shall be completed prior to occupancy.
6. The applicant shall comply with all applicable building codes, fire codes, and other public health and safety regulations to ensure that the use will not be detrimental to the safety and health of persons in the neighborhood. The applicant is responsible for obtaining the necessary approvals and permits pertaining to the proposed use. If the applicant must materially modify the size or height of the building to comply with these codes, then a conditional use permit shall be submitted to establish that the changes are consistent with the overall development character of the neighborhood.
7. Applicant/owner shall install tsunami hazard wayfinding signage in a format and location approved by the City prior to occupancy. Further emergency evacuation information shall be posted in hotel common areas to alert employees and guests to the tsunami threat.

**CITY OF NEWPORT  
NOTICE OF A REQUEST FOR DESIGN REVIEW<sup>1</sup>**

**This meeting will be conducted by video-conference. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate in the hearing.**

**NOTICE IS HEREBY GIVEN** that a request has been filed to modify the design review approval granted on May 24, 2021 for a 25-room hotel (identified as “The Whaler at Nye Beach”) within the Historic Nye Beach Design Review District under the Design Guidelines as follows:

**Applicant:** Russell Schutte, O'Brien Construction/Open Concept Architecture, representative (Ric Rabourn, Hallmark Resort, property owner).

**File No. 1-NB-22**

**Request:** Consideration by the Planning Commission of a modification to the design of a new 25-room hotel that was found to have satisfied the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21). Changes include an alteration to the building footprint that results in a portion of the structure 5-feet further away from W. Olive Street (to improve waterproofing); relocation of mechanical equipment to the top of the building; removal of exterior stairs adjacent to W. Olive Street (for security); relocation of the elevator shaft interior to the building; adjustments to the location of certain decks, balconies, and windows; reconfiguration of sidewalk/frontage improvements along SW Dolphin Street; and the elimination of one planned off-street parking space.

**Location:** Assessor's Map 11-11-08-BB, Tax Lots 15902 & 15903 (33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St).

**Applicable Criteria:** The development must be consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030 (“Adoption of Design Review: Guidelines and Standards” of the Historic Nye Beach Design Review District (HNBO)). Copies of the design guidelines are available at the Community Development (Planning) Department located in the Newport City Hall or on the City’s website at: [https://www.newportoregon.gov/dept/cdd/documents/Newport\\_Design\\_Review\\_and\\_Guidelines.pdf](https://www.newportoregon.gov/dept/cdd/documents/Newport_Design_Review_and_Guidelines.pdf).

**Procedure/Testimony:** A modification of an approved design may be requested of the approving authority for any reason by an applicant. Applications for a modification shall be submitted and processed in the same manner as the original application (NMC 14.30.110). The design review permit being modified (File No. 1-NB-21) was originally approved by the Planning Commission under a Type III review process (NMC 14.52.030(B)). Written comments must be submitted by 12:00 p.m. (noon) on Monday, February 14, 2022, to the Newport Community Development Department (address below in “Application Material/Reports”) or else entered into the record during the course of the public hearing on February 14th (location identified below in “Time/Place of Hearing”). Issues that may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period (close of the February 14th public hearing) and must be raised with sufficient specificity to enable the decision maker to respond to the issue. The review process at the Commission will be by public hearing. The Commission will review the request for compliance with the relevant design guidelines. If the Commission finds that the request complies with the relevant design guidelines, the request shall be approved. If the Commission finds that the request does not comply with the design guidelines, the Commission shall identify where the request does not meet the guidelines and may attach conditions of approval necessary to obtain compliance with the design guidelines so that the request can be approved. If the application cannot be made to comply with the design guidelines, the Commission may deny the request. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Notice of the decision will be provided to any person who makes written comments during the comment period. Pursuant to ORS 197.763(6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

<sup>1</sup>This notice is being sent to affected property owners within 100 feet of the subject property (according to Lincoln County tax records), affected public/private utilities/agencies within Lincoln County, and affected city departments.

BAIRD GINA  
8540 HWY 20  
TOLEDO, OR 97391

BOXER CHARLOTTE A  
606 N TOMAHAWK ISLAND DR  
PORTLAND, OR 97217

BRIGGS LINDA R  
751 NW 1ST ST  
NEWPORT, OR 97365

BUGBEAR LLC  
3625 FALLON CIRCLE  
SAN DIEGO, CA 92130

CHAPIN DONALD D &  
CHAPIN LINDA L  
6715 OTTER CREST LOOP  
OTTER ROCK, OR 97369

CITY OF NEWPORT  
CITY MANAGER  
169 SW COAST HWY  
NEWPORT, OR 97365

DUDEK STEVE &  
RENNER RITA  
PO BOX 726  
MORGAN HILL, CA 95038

EMOND LISA &  
EMOND ROBERT  
720 W OLIVE ST  
NEWPORT, OR 97365

ESTENSON CHARLES  
519 SW 3RD ST  
NEWPORT, OR 97365

FERBER FAMILY TRUST &  
FERBER NORMAN L TRUSTEE &  
FERBER MARY MEGOWAN TRUSTEE  
5726 NE BIG CREEK RD  
NEWPORT, OR 97365

FRASER ROBERT T &  
GIBSON NORA  
4949 ERSKINE WAY SW  
SEATTLE, WA 98116

GELLIES 1 LLC &  
SQUAREHOLE LLC  
2855 E MANOA RD  
STE 105 PMB#176  
HONOLULU, HI 96822

GEORGE JODY LYNN &  
WISNER ANNEKE JAN  
232 N COAST ST  
STE A  
NEWPORT, OR 97365

GESIK JOHN ELMER REV LIV TR &  
GESIK JOHN ELMER TRUSTEE &  
GESIK ELDORA LOU TRUSTEE  
155 SW DOLPHIN ST  
NEWPORT, OR 97365

GULLEDGE JOHN T &  
GULLEDGE CINDY E  
4950 SW WEST HILLS RD  
CORVALLIS, OR 97333

GURWELL ROBIN L  
115 SW COAST ST  
NEWPORT, OR 97365

HALCYON HOTELS LLC  
ATTN MCCORMACK WINTHROP  
2601 NW THURMAN ST  
PORTLAND, OR 97210

HALLMARK INNS & RESORTS INC  
ATTN RIC RAUBOURN  
FIVE CENTERPOINTE DR  
SUITE #590  
LAKE OSWEGO, OR 97035

HSBC BANK USA NA TSTEE  
ATTN PHH MORTG CORP  
ATTN VAULT  
5720 PREMIER PARK DR  
WEST PALM BEACH, FL 33407

JACKS PLACE LLC  
10837 FERNDAL RD  
DALLAS, TX 75238

JONES JOHN BILL TSTEE  
2138 LOS ANGELES AVE  
BERKELEY, CA 94707

KELLAY KATHLEEN  
PO BOX 1561  
NEWPORT, OR 97365

KROPP HELEN LOUISE TSTEE  
PO BOX 15  
NEWPORT, OR 97365

KRUPP MARTHA J  
721 NW 1ST ST  
NEWPORT, OR 97365

LINCOLN COUNTY  
ATTN LINCOLN CO PROP MGMT  
880 NE 7TH ST  
NEWPORT, OR 97365

LIVERMORE MIQUEL D &  
LIVERMORE LINDA R  
5476 SERENITY DR SE  
SALEM, OR 97317

MAY JAMES T TRUSTEE  
1990 VAN BUREN  
EUGENE, OR 97405

MCCLENEY BRYAN &  
VENDITTI ROBBIE  
2427 S GAUCHO  
MESA, AZ 85202

NASH MARSHA L &  
MARKS STUBCHAER SANDRA L  
23 TWELVE MILE RD  
SALMON, ID 83467

NEFF ROY S III &  
HINES LAURI L  
944 N BAYVIEW RD  
WALDPOR, OR 97394

NEWPORT HOTEL ASSOCIATES LLC  
15924 QUARRY RD  
LAKE OSWEGO, OR 97035

NUSS KENNETH &  
NUSS VICTORIA  
4114 SOUTHVIEW TER  
MEDFORD, OR 97504

OBTESHKA TERRY L &  
OBTESHKA EILEEN G  
722 NW 1ST ST  
NEWPORT, OR 97365

OCONNELL KENNETH R TRUSTEE &  
OCONNELL GWYNETH P TRUSTEE  
220 WEST 23RD AVE  
EUGENE, OR 97405

ORCA HOUSE LLC  
ATTN SALLY HUGHES  
2012 W GRACE AVE  
SPOKANE, WA 99205

PACIFIC SURF CONDOMINIUM  
ASSOCIATION OF UNIT OWNERS  
ANDERSON REAL ESTATE  
PO BOX 948  
NEWPORT, OR 97365

PARKER LARRY E TRUSTEE &  
PARKER BISSON EILEEN TRUSTEE  
PO BOX 74  
SILETZ, OR 97380

PARKER MIKE THOMAS  
ATTN LARRY PARKER  
PO BOX 74  
SILETZ, OR 97380

PARQUE ANTOINETTE E &  
TRANTOW WAYNE D  
9635 SW WASHINGTON PL  
PORTLAND, OR 97225

PELICAN HOUSE LLC  
ATTN GERALD HUGHES  
2012 W GRACE AVE  
SPOKANE, WA 99205

PELICAN HOUSE LLC  
ATTN GERALD HUGHES  
2012 W GRACE AVE  
SPOKANE, WA 99205

POMBO MATTHEW &  
POMBO KRYSTAL  
269 W POWERS AVE  
CLOVIS, CA 93619

PRIDGEON JEFFREY C &  
PRIDGEON JILL B  
515 SW OLIVE ST  
NEWPORT, OR 97365

PURPUREE VICTOR CURTIS &  
55 SW COAST ST  
NEWPORT, OR 97365

RICKBONE CATHERINE M  
PO BOX 1810  
NEWPORT, OR 97365

ROGERS JOHN D &  
ROGERS TERESA M  
PO BOX 2377  
NEWPORT, OR 97365

ROMINES ROBERT T (TOD) &  
ROMINES AYMEE M (TOD)  
143 SW CLIFF ST  
NEWPORT, OR 97365

SCANLON PROPERTIES LLC  
PO BOX 973  
NEWPORT, OR 97365

SEASCAPE CONDO INC  
ATTN LINDSEY SALLY  
12 NE FREMONT ST  
UNIT 7E  
PORTLAND, OR 97212

SEASCAPE CONDO INC  
ATTN SEASCAPE  
RON CHATTERTON CPA  
2564 N 167TH AVE  
GOODYEAR, AZ 85395

SEASCAPE CONDO INC  
ATTN SEASCAPE UNIT OWNERS ASSN  
DENETTE TONEY, TREASURER  
15496 SW HWY 97  
CULVER, OR 97734

SEASCAPE CONDO INC  
ATTN SEASCAPE UNIT OWNERS ASSN  
HILL VICKI  
22597 SW 112TH AVE  
TUALATIN, OR 97062

SEASCAPE CONDO INC  
ATTN SEASCAPE UNIT OWNERS ASSN  
PIOTTER VICKI  
38959 HILLS CREEK RD  
SPRINGFIELD, OR 97478

SWARNER SETH  
4326 SE WOODSTOCK BLVD  
#501  
PORTLAND, OR 97206

TATE JOHN CLAYTON &  
TATE ROBIN LEE  
0841 SW GAINES ST  
#1612  
PORTLAND, OR 97239

TRINIDAD JAMES TRUSTEE &  
TRINIDAD CATHY TRUSTEE  
1413 KAREN DR  
BENICIA, CA 94510

WESLEYSON ALEX THOMAS &  
WESLEYSON KATHLEEN  
756 SW SECOND ST  
NEWPORT, OR 97365

WILSON DARREL L &  
WILSON DELORES I  
1900 SYLVAN  
EUGENE, OR 97403

ZEKAN WILLIAM J &  
ZEKAN CAROL K  
725 SW 2ND ST  
NEWPORT, OR 97365

O'BRIEN CONSTRUCTION /  
OPEN CONCEPT ARCHITECTURE  
ATTN RUSSELL SCHUTTE  
208 NW 21ST AVE #201  
PORTLAND, OR 97209

**NW Natural**  
ATTN: Dave Sanders  
1405 SW Hwy 101  
Lincoln City, OR 97367

**Charter Communications**  
ATTN: Keith Kaminski  
355 NE 1<sup>st</sup> St  
Newport OR 97365

**CenturyLink**  
ATTN: Corky Fallin  
740 State St  
Salem OR 97301

**Central Lincoln PUD**  
ATTN: Randy Grove  
PO Box 1126  
Newport OR 97365

**Wendy Engler, NNA Secretary**  
255 NW Coast St. Apt. B  
Newport OR 97365

**Jan Kaplan, NNA President**  
35 NW High St  
Newport OR 97365

**LINCOLN COUNTY ASSESSOR**  
**LINCOLN COUNTY COURTHOUSE**  
225 W OLIVE ST  
NEWPORT OR 97365

*Email: Lisa Phipps*  
*DLCD Coastal Services Center*  
*[lisa.phipps@state.or.us](mailto:lisa.phipps@state.or.us)*

**\*\*EMAIL\*\***  
**[odotr2planmgr@odot.state.or.us](mailto:odotr2planmgr@odot.state.or.us)**

**\*\*EMAIL\*\***  
**Nye Neighborhood Association**  
**Jan Kaplan**  
**[nye.neighbors@gmail.com](mailto:nye.neighbors@gmail.com)**

**Joseph Lease**  
**Building Official**

**Rob Murphy**  
**Fire Chief**

**Aaron Collett**  
**Public Works**

**Beth Young**  
**Associate Planner**

**Jason Malloy**  
**Police Chief**

**Mike Murzynsky**  
**Finance Director**

**Laura Kimberly**  
**Library**

**Michael Cavanaugh**  
**Parks & Rec**

**Spencer Nebel**  
**City Manager**

**Clare Paul**  
**Public Works**

**Derrick Tokos**  
**Community Development**

**David Powell**  
**Public Works**

**Lance Vanderbeck**  
**Airport**

**EXHIBIT 'A'**  
**(Affected Agencies)**

**(1-NB-22)**

# MEMO

City of Newport  
Community Development Department



*(\*distributed via email\*)*

**Date:** January 25, 2022

**To:** Spencer Nebel, City Manager  
David Powell, Public Works  
Aaron Collett, Public Works  
Clare Paul, Public Works  
Rob Murphy, Fire  
Jason Malloy, Police  
Lance Vanderbeck, Airport  
Mike Murzynsky, Finance  
Michael Cavanaugh, Parks & Rec.  
Laura Kimberly, Library  
Beth Young, Associate Planner  
Derrick Tokos, Community Development  
Joseph Lease, Building Official  
Public Utilities

**From:** Sherri Marineau, Executive Assistant

**RE:** Design Review - File # 1-NB-22

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I have attached a copy of a public notice concerning a land use request. The notice contains a brief explanation of the request, a property description, and a date for a public hearing. Please review this information to see if you would like to make any comments on this matter.

We must receive comments at least 10 days prior to the hearing in order for them to be considered in the Staff Report. **Should no response be received, a “no comment” response will be assumed.**

sm

Attachment

### **CITY OF NEWPORT NOTICE OF A REQUEST FOR DESIGN REVIEW**

This meeting will be conducted by video-conference. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate in the hearing. The Newport Planning Commission will hold a public hearing on Monday, February 14, 2022, at 7:00 p.m. in the City Hall Council Chambers to review File No. 1-NB-22, submitted by Russell Schutte, O'Brien Construction/Open Concept Architecture, representative (Ric Rabourn, Hallmark Resort, property owner). The request is for consideration by the Planning Commission of a modification to the design of a new 25-room hotel (identified as "The Whaler at Nye Beach") that was found to have satisfied the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21) granted on May 24, 2021. Changes include an alteration to the building footprint that results in a portion of the structure 5-feet further away from W. Olive Street (to improve waterproofing); relocation of mechanical equipment to the top of the building; removal of exterior stairs adjacent to W. Olive Street (for security); relocation of the elevator shaft interior to the building; adjustments to the location of certain decks, balconies, and windows; reconfiguration of sidewalk/frontage improvements along SW Dolphin Street; and the elimination of one planned off-street parking space. The subject property is located at 33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St (Assessor's Map 11-11-08-BB, Tax Lots 15902 & 15903). The development must be consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030 ("Adoption of Design Review: Guidelines and Standards" of the Historic Nye Beach Design Review District (HNBO)). Copies of the design guidelines are available at the Community Development (Planning) Department located in the Newport City Hall or on the City's website at: [https://www.newportoregon.gov/dept/cdd/documents/Newport Design Review and Guidelines.pdf](https://www.newportoregon.gov/dept/cdd/documents/Newport_Design_Review_and_Guidelines.pdf).

A modification of an approved design may be requested of the approving authority for any reason by an applicant. Applications for a modification shall be submitted and processed in the same manner as the original application (NMC 14.30.110). The design review permit being modified (File No. 1-NB-21) was originally approved by the Planning Commission under a Type III review process (NMC 14.52.030(B)). Written comments must be submitted by 12:00 p.m. (noon) on Monday, February 14, 2022, to the Newport Community Development Department (address below in "Application Material/Reports") or else entered into the record during the course of the public hearing on February 14th (location identified below). Issues that may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period (close of the February 14th public hearing) and must be raised with sufficient specificity to enable the decision maker to respond to the issue. The review process at the Commission will be by public hearing. The Commission will review the request for compliance with the relevant design guidelines. If the Commission finds that the request complies with the relevant design guidelines, the request shall be approved. If the Commission finds that the request does not comply with the design guidelines, the Commission shall identify where the request does not meet the guidelines and may attach conditions of approval necessary to obtain compliance with the design guidelines so that the request can be approved. If the application cannot be made to comply with the design guidelines, the Commission may deny the request. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Notice of the decision will be provided to any person who makes written comments during the comment period. Pursuant to ORS 197.763(6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast

Hwy, Newport, Oregon 97365. A copy of the staff report may be reviewed or a copy purchased (address above), generally seven days prior to the hearing. Contact Derrick Tokos, Community Development Director (address above); (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) **F04 (54-04)**

## CAPE PERPETUA SPEAKER SERIES

"Winners and Losers: Climate and Pacific Salmon in Coastal Oregon," by Rebecca Flitcroft, research fish biologist with the U.S. Forest Service, will be the topic of the next virtual Cape Perpetua Speaker Series. 10 a.m. Register at [capeperpetuacollaborative.org/event/climate-pacific-salmon-coastal-oregon](http://capeperpetuacollaborative.org/event/climate-pacific-salmon-coastal-oregon)

Come and take part or just sit and listen during an open jam session from 6 to 8 p.m. at the Toledo Eagles, 161 SE Second St. Info: 541-336-2172.

appointment through March 540 NE Highway 101. Info:

# ADVERTISE Int

## DEPOE BAY

Continued from page 1

planning commission's mistakes, citing a previous council discussion on placing a council member on the commission.

Philips also said he and other members of the commission disapproved of the council's method of searching for a new city planner.

During a prior meeting, the council considered

renewing the contract of the current planner, Jaime White, but following an abrupt motion from council and sparse discussion, chose to put the contract out for bid instead and without prior notice to White.

Philips said informing a member of city staff they need to reapply for their own job during a public city council meeting was "completely unprofessional and unacceptable

to me personally."

According to City Recorder Barbara Chestler, White chose not to reapply to the position once it was made public for applicants, and the city proceeded to search for new applicants in January. Ultimately, city staff felt only one applicant was qualified.

That applicant was Christopher Fox, who attended Tuesday's meeting via phone, and the coun-

cil arranged to have him visit the city on Feb. 8 for an interview.

Councilor Lindsay Beddingfield said that following the resignations, she was actively looking for ways to improve the relationship and processes between the council and commission.

Other notable items from the meeting:

- The council moved to end the city's agreement to provide water and

sewer services for 100000 residents Sanitary District 10

Depoe Bay will give the district a five-year agreement that it plans to deny. Beddingfield said one of the reasons to end the agreement was that the arrangement was untenable long term.

- The council reviewed proposals from contractors for the Depoe Bay harbor restoration project.

## PUBLIC NOTICES

02/04/2022

### LEGAL DEADLINES:

**Wednesday Edition: 2:00pm Friday PRIOR**

**Friday Edition: 2:00pm Tuesday PRIOR**

### NOTICE OF SHERIFF'S SALE #22-0059

On February 22, 2022, at the hour of 10:00 a.m., at the Lincoln County Courthouse, Sheriff's Office, 225 W Olive St., Rm 203, in the City of Newport, Oregon, the defendant's interest will be sold, subject to redemption, in the real property commonly known as: 722 NE Hwy 101, Lincoln City, OR 97367. The Multnomah County Circuit Court case number is 16CV41251, Emma Wyant-Fassih, Pascha John Wyant-Fassih (lit friend Elizabeth Wyant), and Cyrrus Nima Wyant-Fassih (lit friend Elizabeth Wyant), plaintiff(s) vs. Touraj Fassih, defendant(s). This is a public auction to the highest bidder for cash or cashier's check, in hand. For more details go to [http://www.oregonsheriffssales.org/county/lincoln/J21 J28 F04 F11 \(40-11\)](http://www.oregonsheriffssales.org/county/lincoln/J21 J28 F04 F11 (40-11))

### SELF STORAGE PUBLIC SALE

Safe-Lock Storage 3639 SE Ash St South Beach, Oregon 97366. Saturday 2/26/2022 @ 10:00am A08

Kindi White, C19 Patricia DiGiulio, K04 Lucy Keith. Sale Subject to Cancellation Safe-Lock Storage reserves the right to refuse any and all bids. F04 F11 (63-11)

### BOARD MEETING

The Depoe Bay Fire District Board of Directors will hold their monthly Board Meeting at 4:00 pm on Tuesday, February 8, 2022, at the Gleneden Beach Fire Station, 6445 Gleneden Beach Loop, Gleneden Beach, OR 97388. Please note that due to COVID guidelines currently in place at federal and state levels, the public may attend the meeting only via Go To Meeting. Individuals who wish to attend are asked to contact the District Administrator at least forty-eight hours prior to the noticed meeting time by phone at 541-764-2202 or by email at [jwoolsey@depoebayfire.com](mailto:jwoolsey@depoebayfire.com). F04 (62-04)

### CITY OF NEWPORT NOTICE OF A REQUEST FOR DESIGN REVIEW

This meeting will be conducted by video-conference. Please contact the Community Development Department at the phone number or email listed below for options on how you can participate in the hearing. The Newport Planning Commission will hold a public hearing on Monday, February 14, 2022, at 7:00 p.m. in the City Hall Council Chambers to review File No. 1-NB-22, submitted by Russell Schutte, O'Brien Construction/Open Concept Architecture, representative (Ric Rabourn, Hallmark Resort, property owner). The request is

for consideration by the Planning Commission for a modification to the design of a new 25-room hotel (identified as "The Whaler at Nye Beach") that was found to have satisfied the design guidelines for the Historic Nye Beach Design Review District (File No. 1-NB-21) granted on May 24, 2021. Changes include an alteration to the building footprint that results in a portion of the structure 5-feet further away from W. Olive Street (to improve waterproofing); relocation of mechanical equipment to the top of the building; removal of exterior stairs adjacent to W. Olive Street (for security); relocation of the elevator shaft interior to the building; adjustments to the location of certain decks, balconies, and windows; reconfiguration of sidewalk/frontage improvements along SW Dolphin Street; and the elimination of one planned off-street parking space. The subject property is located at 33 SW Elizabeth St; 39 SW Elizabeth St; and 41 SW Elizabeth St (Assessor's Map 11-11-08-BB, Tax Lots 15902 & 15903). The development must be consistent with Design Guidelines No. 1 through No. 9 of the document entitled "Newport Design Review: Guidelines and Standards," effective July 29, 2015 and incorporated by reference by Newport Municipal Code (NMC) Section 14.30.030 ("Adoption of Design Review: Guidelines and Standards" of the Historic Nye Beach Design Review District (HNBD)). Copies of the design guidelines are available at the Community Development (Planning) Department located

in the Newport City Hall or on the City's website at: [https://www.newportoregon.gov/dept/cdd/documents/Newport\\_Design\\_Review\\_and\\_Guidelines.pdf](https://www.newportoregon.gov/dept/cdd/documents/Newport_Design_Review_and_Guidelines.pdf). A modification of an approved design may be requested of the approving authority for any reason by an applicant. Applications for a modification shall be submitted and processed in the same manner as the original application (NMC 14.30.110). The design review permit being modified (File No. 1-NB-21) was originally approved by the Planning Commission under a Type III review process (NMC 14.52.030(B)). Written comments must be submitted by 12:00 p.m. (noon) on Monday, February 14, 2022, to the Newport Community Development Department (address below in "Application Material/Reports") or else entered into the record during the course of the public hearing on February 14th (location identified below). Issues that may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period (close of the February 14th public hearing) and must be raised with sufficient specificity to enable the decision maker to respond to the issue. The review process at the Commission will be by public hearing. The Commission will review the request for compliance with the relevant design guidelines. If the Commission finds that the request complies with the relevant design guidelines, the request shall be approved. If the Commis-

sion finds that the request does not comply with the design guidelines, the Commission shall identify where the request does not meet the guidelines and may attach conditions of approval necessary to obtain compliance with the design guidelines so that the request can be approved. If the application cannot be made to comply with the design guidelines, the Commission may deny the request. The hearing will include a report by staff, testimony (both oral and written) from those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Notice of the decision will be provided to any person who makes written comments during the comment period. Pursuant to ORS 197.763(6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The application materials and the applicable criteria are available for inspection at no cost or copies may be purchased at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon 97365. A copy of the staff report may be reviewed or a copy purchased (address above), generally seven days prior to the hearing. Contact Derrick Tokos, Community Development Director (address above); (541) 574-0626; [d.tokos@newportoregon.gov](mailto:d.tokos@newportoregon.gov) F04

(55-04)

### NOTICE TO INTERESTED PERSONS

NOTICE is given that in the Circuit Court for the State of Oregon for the County of Lincoln, in the Matter of the Estate of Arline M Clark Robbins, Case No. 22PB00471, Greg Clark has been appointed personal representative. All persons having claims against the estate are required to present them, with vouchers attached, to the undersigned personal representative at 9001 Tudor Dr, #107, Tampa Florida 33615, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the Court, the personal representative, or the lawyers for the personal representative, Margaret E Dailey, Attorney at Law, P O Box 552, Newport, Oregon 97365, (541) 265-8805. J28 F04 F11 (52-11)

### INTERESTED PERSONS

Notice is hereby given that Michael Spaulding has been appointed personal representative for the Estate of Richard E. Spaulding by the Circuit Court of the State of Oregon for Lincoln County in Case No. 22PB00540. All persons having claims against the estate are hereby notified to present them to the personal representative at the office of the personal representative's attorney at 1400 Executive Parkway, Suite 300, Eugene, OR 97401, within four months from

the date of publication of this notice. All persons may be proceeded with the addition of claims from the estate. The personal representative is Sarah E Ford, 1115 Pe Eugene 541-34 first pub 2022. J

### NOTICE

You are notified that the Lincoln County Annual Consensus Meeting (February 22, 2022) will be held at the SENTA Annual WHERT Register (swcd.org/31) contact (info@lincoln.gov) for more information. The meeting will be held at the District with the ADA program accessible like to but not modifiable. Contact the District at (541) 265-8805. The meeting will be held at the District with the ADA program accessible like to but not modifiable. Contact the District at (541) 265-8805.

INTERESTED PERSONS IN THE MATTER OF THE ESTATE OF THOMAS F. GONZALES

## Derrick Tokos

---

**From:** Derrick Tokos  
**Sent:** Monday, February 7, 2022 9:49 AM  
**To:** 'Wendy Engler'  
**Subject:** RE: File 1-NB-22

Hi Wendy,

I shared your questions with the applicant's architect. Below are their responses. At this time, I believe we are looking at one Acorn style light in the vicinity of the Dolphin and Olive intersection for safety purposes.

Derrick I. Tokos, AICP  
Community Development Director  
City of Newport  
169 SW Coast Highway  
Newport, OR 97365  
ph: 541.574.0626 fax: 541.574.0644  
d.tokos@newportoregon.gov

It looks like the pedestrian-oriented change on Olive & Elizabeth is limited to removing the east stairway to the deck - or are there additional changes?

- Correct, this was done to increase seating at the terrace level and improve security. This was the only change to the lower façade.

How wide are the sidewalks along Olive & Elizabeth and are there still "passing lane" bulb outs to accommodate two-way traffic safely so people and strollers don't have to go in the street?

- Sidewalks are 5' per city standards, there are locations in front of the building with benches to offer resting/widened spots along the path.

Is there lighting in the wall next to the sidewalk and/or bollard lighting similar to Don and Ann Davis Park - or does the Olive and Elizabeth lighting rely on the tall streetlights or a combination?

- There is a combination of bollard and landscape lighting along the path, The Acorn type Street light similar to the Park lighting will be included once city engineer determines final location for the project.

If there are other significant changes in the plan related to these aspects, I would appreciate knowing.

- These are the only changes to the building in regard to public access and lighting along Elizabeth.

-----Original Message-----

From: Wendy Engler <wendy.engler@yahoo.com>  
Sent: Friday, February 4, 2022 10:27 AM  
To: Derrick Tokos <D.Tokos@NewportOregon.gov>  
Subject: File 1-NB-22

[WARNING] This message comes from an external organization. Be careful of embedded links.

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Good Morning Derrick,

Regarding the recent originations of the Hallmark expansions plans, will you please clarify the changes in the pedestrian, sidewalk and lighting aspects of the new proposal? Here's what is appears like to me- please correct me if I'm wrong:

It looks like the pedestrian-oriented change on Olive & Elizabeth is limited to removing the east stairway to the deck - or are there additional changes?

How wide are the sidewalks along Olive & Elizabeth and are there still "passing lane" bulb outs to accommodate two-way traffic safely so people and strollers don't have to go in the street?

Is there lighting in the wall next to the sidewalk and/or bollard lighting similar to Don and Ann Davis Park - or does the Olive and Elizabeth lighting rely on the tall streetlights or a combination?

If there are other significant changes in the plan related to these aspects, I would appreciate knowing.

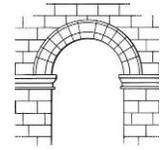
Thank you for the information,  
Wendy Engler

## **Newport Design Review Glossary and Illustrations**

*Many of the architectural/illustrations adapted from the City of Eugene Planning and Development Historic Preservation Program and from other sources.*

### **Architectural & Design Review Terms**

**Arch.** A construction technique and structural member, usually (curved and made of masonry. Composed of individual wedge-shaped members that span an opening and support the weight above by resolving vertical pressure into horizontal or diagonal thrust.



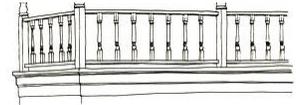
Arch

**Architrave.** The lowest part of an entablature, or the molded frame above a door or window opening.

**Balcony.** A platform projecting from the wall or window of a building, usually enclosed by a railing.

**Baluster.** Any of the small posts that support the upper rail of a railing, as in a staircase.

**Balustrade.** An entire railing system including a top rail and its balusters, and sometimes a bottom rail.



Balustrade

**Bargeboard.** See "vergeboard" definition.

**Bay window.** A projecting bay with windows that forms an extension to the interior floor space. On the outside, the bay should extend to ground level contrast to an oriel window, which projects from the wall plane above ground level.



Bay Window



Oriel Window

**Belt course.** A horizontal ornamentation that often provided a division between siding styles. See *Illustration# 3*.

**Board-and-batten siding.** Vertical siding made up of alternating wide and thin boards (other than plywood or pressboard) where the thin boards cover the joints between the wide boards.

**Bracket.** A small projection, usually carved or decorated, that supports or appears to support a projecting eave or lintel.



Bracket

**Capital.** The topmost member, usually decorated, of a column or pilaster.

**Casement window.** A window that is hinged on the side and opens in or out.

**Chimney pot.** A decorative masonry element placed at the top of a chimney, common on Queen Anne and Tudor Revival buildings.

Clapboards. Narrow, horizontal, overlapping wooden boards that form the outer skin of the walls of many wood-frame houses. In older houses, the exposure (the exposed area of each board not overlapped by another board) ranges from four to six inches.

Column. A vertical shaft or pillar usually circular in section that supports, or appears to support, a capital, load beam or architrave.

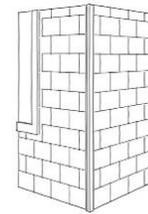
Corbel. A projection from a masonry wall, sometimes supporting a load and sometimes for decorative effect.



Corbel

Corbeled cap. The termination of a brick chimney that projects outward in one or more courses.

Corner board. A board which is used as trim on the external corner of a wood-frame structure and against which the ends of the siding are fitted.



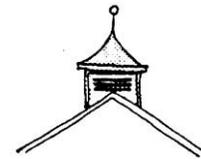
Corner board

Cornice. The exterior trim of a structure at the meeting of the roof and wall; usually consists of bed molding, soffit, fascia, and crown molding. *See Illustration# 8 (top illustration).*

Course. In masonry, a layer of bricks or stones running horizontally in a wall. *See also "belt course."*

Cresting. Decorative grillework or trim applied to the ridge crest of a roof. Common on Queen Anne style buildings.

Cross gable. A gable that is perpendicular to the main axis or ridge of a roof.

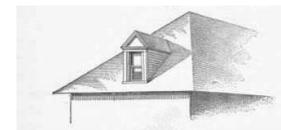


Cupola

Cupola. A small, sometimes domed structure surmounting a roof. Found mainly on Italianate and Colonial Revival buildings.

Dentil molding. A molding composed of small rectangular blocks run in a row.

Dormer. A structure containing a vertical window (or windows) that projects through a pitched roof.

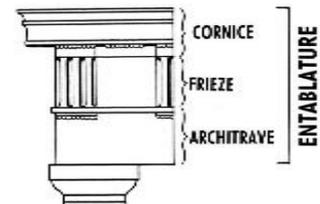


Dormer

Double-hung sash window. A window with two or more sashes; it can be opened by sliding the bottom portion up or the top portion down, and is usually weighted within the frame to make lifting easier.

Eave. The part of the roof that overhangs the wall of a building.

Entablature. Above columns and pilasters, a three-part horizontal section of a classical order, consisting of the cornice at the top, the frieze in the middle, and the architrave on the bottom.



Facade. The face or front of a building. *See Illustration # 1.*

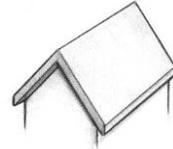
Fanlight. A window, often semicircular, over a door, with radiating muntins suggesting a fan.

Fascia board. A flat board horizontally located at the top of an exterior wall, directly under the eaves.

French door. Two doors, composed of small panes of glass set within rectangularly arrayed muntins, mounted within the two individual frames. Usually such doors open onto an outside terrace or porch.

Frieze. The middle division of an entablature, below the cornice.

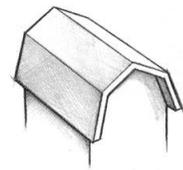
Gable. The vertical triangular portion of the end of a building having a double-sloping roof, usually with the base of the triangle sitting at the level of the eaves, and the apex at the ridge of the roof. The term sometimes refers to the entire end wall. See Illustration # 2.



Gable Roof

Gable roof. A roof form having an inverted "V"-shaped roof at one or both ends.

Gambrel roof. A roof having two pitches on each side, typical of Dutch Colonial and Colonial Revival architecture.



Gambrel Roof

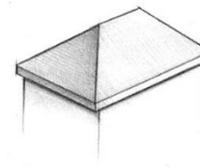
Gingerbread. Highly decorative woodwork with cut out ornament, made with a jigsaw or scroll saw, prominent in Gothic Revival architecture. Gingerbread in the Gothic Revival style can be distinguished from the ornamentation in the Stick and Eastlake styles which featured characteristically curved brackets and rows of spindles and knobs thicker than the gingerbread woodwork and were created with the lathe, the chisel, and the gouge.

Half-timbering. In late medieval architecture, a type of construction in which the heavy timber framework is exposed, and the spaces between the timbers are filled with wattle-and daub, plaster, or brickwork. The effect of half timbering was imitated in Oregon in the 19th and 20th centuries by the Queen-Anne and Tudor Revival styles.



Hipped (hip) roof. A roof which slopes upward on all four sides.

Hood molding. A decorative molding over a window or door frame, commonly found on Italianate style buildings such as the Smeede Hotel in Eugene.



Hip Roof

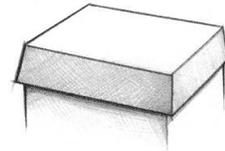
Jerkinhead roof. A gable roof truncated or clipped at the apex - also called a clipped gable roof. Common in Bungalows and Tudor Revival, and Arts and Crafts style buildings.

Latticework. A wood or metal screen composed of interlaces or crossed thin strips.

Leaded glass. Small panes of glass, either clear or colored, that are held in place by strips of lead.

Lintel. A horizontal beam over an opening in a wall that carries the weight of the structure above.

Mansard roof. A roof with two slopes, the lower slope being nearly vertical, often concave or convex in profile. Common to the Italianate and Queen Anne styles.



Mansard Roof

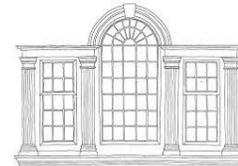
Molding. A decorative band or strip with a constant profile or section generally used in cornices and as a trim around window and door openings. It provides a contoured transition from one surface to another or produces a rectangular or curved profile to a flat surface.

Mullion. The vertical member of a window or door that divides and supports panes or panels in a series.

Muntin. One of the members, vertical or horizontal, that divides and supports the panes of glass in a window.

Oriel window. A window bay that projects from the building beginning above the ground level. See “bay window” definition for illustration.

Palladian window. A window divided into three parts: a large arched central window, flanked by two smaller rectangular windows. These are found in Colonial Revival as well as Italianate buildings.

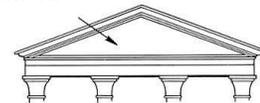


Palladian Window

Parapet. A wall that extends above the roof line. Common in California Mission style buildings. See Illustration # 7.

Pediment. A low triangular gable end, often found in classical architecture.

Pediment



Pent roof. A small, sloping roof, the upper end of which butts against a wall of a house, usually above the first-floor windows.

Pilaster. An engaged pier or pillar, often with capital and base.

Pillar. A post or column-like support.

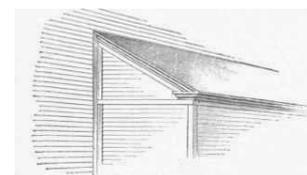
Pitch. The degree of slope or inclination of a roof.

Plywood. A structural material consisting of sheets of wood glued or cemented together with the grains of adjacent layers arranged at right angles or at a wide angle.

Pointed arch. Any arch with a point at its apex, common but not restricted to Gothic architecture. Tudor Revival buildings also frequently incorporate pointed arch motifs.

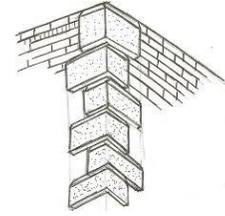
Portico. A porch or covered walkway consisting of a roof supported by columns.

Pressboard. A strong highly glazed composition board resembling vulcanized fiber.



Pent (Shed) Roof

**Quoins.** Cornerstones of a building, rising the entire height of the wall, and distinguished from the main construction material by size, texture, or conspicuous joining. In masonry construction, they reinforce the corners; in wood construction, they do not bear any load, are made of wood, and imitate the effect of stone or brick.



Quoins

**Rafters.** The sloping wooden roof-frame members that extend from the ridge to the eaves and establish the pitch of the roof. In Craftsman and Bungalow style buildings the ends of these, called "rafter tails" are often left exposed rather than boxed in by a soffit. See "truss" for illustration.

**Ribbon window.** A continuous horizontal row, or band, of windows separated only by mullions. Used to some extent in Craftsman designs, but more common in Eugene on post-war modern buildings.

**Round arch.** A semicircular arch, often called a Roman arch.

**Rustication.** Masonry characterized by smooth or roughly textured block faces and strongly emphasized recessed joints.

**Sash.** Window framework that may be fixed or moveable. If moveable, it may slide, as in a double-hung window; or it may pivot, as in a casement window.

<p>6/6 6 over 6 sash is common in older buildings. In the old days, big pieces of glass were expensive, so windows were made from lots of smaller pieces.</p>	<p>9/6 9 over 6 is also common in older buildings for the same reasons.</p>	<p>4/4 These windows became more common after the Civil War.</p>	<p>3/2 This type of window is seen a lot in modern buildings.</p>	<p>3/1 This style was a popular feature on Bungalow homes.</p>	<p>4/1 This style was also a popular feature on Bungalow homes.</p>	<p>1/1 This window is very common on modern buildings.</p>

**Shiplap siding.** Wooden siding tapered along its upper edge where it is overlapped by the next higher courses of siding.

**Side light.** A framed window on either side of a door or window.

**Siding.** The narrow horizontal or vertical wooden boards that form the outer face of the walls in a traditional wood-frame building. Horizontal wooden siding types include shiplap and clapboard/weatherboard, while board-and-batten is the primary type of vertical siding. Shingles, whether of wood or composite material, are another siding type.

Sill. The lowest horizontal member in a frame or opening of a window or door. Also, the lowest horizontal member in a framed wall or partition.

Skirting. Siding or latticework applied below the watertable molding on a building.

Soffit. The underside of the eaves on a building, particularly the boards enclosing the eaves and covering rafter tails.

Stucco. A material, usually composed of cement, sand, and lime, applied to a surface to form a hard, uniform covering that may be either smooth or textured. Also, a fine plaster used in decoration and ornamentation of interior walls.

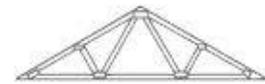
Surround. The molded trim around a door or window.

Swan's neck pediment. A pediment with an open apex; each side terminates in curves resembling a swan's neck. Found in Oregon mainly on Colonial Revival buildings.

Terra cotta. A red-brown fired but unglazed clay used for roof tiles and decorative wall covering. These roof tiles are common in California Mission style. Glazed terra cotta was frequently used for exterior decoration on commercial buildings of the early 20th Century.

Transom. Horizontal window opening above a door or window.

Truss. A framework of beams (like ribs) that support the roof (usually triangular).



Truss

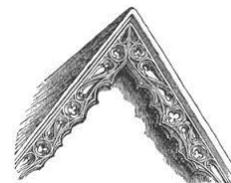
Tongue and groove. A type of board milled to create a recessed groove along one long side and a corresponding flange along the other that lock together when two or more boards are placed side-by-side. Tongue and groove boards were commonly used for flooring and siding.

Tudor arch. A four centered pointed arch, characteristic of Tudor style architecture in England in the 15th and 16th centuries.

Turret. A small, slender tower, usually corbeled from a corner of a building

Veranda. A covered porch or balcony, running alongside a house; the roof is often supported by columns.

Vergeboard. An ornamental board, sometimes jigsaw cut that serves as trim and is attached to the overhanging eaves of a gable roof; sometimes called a bargeboard.

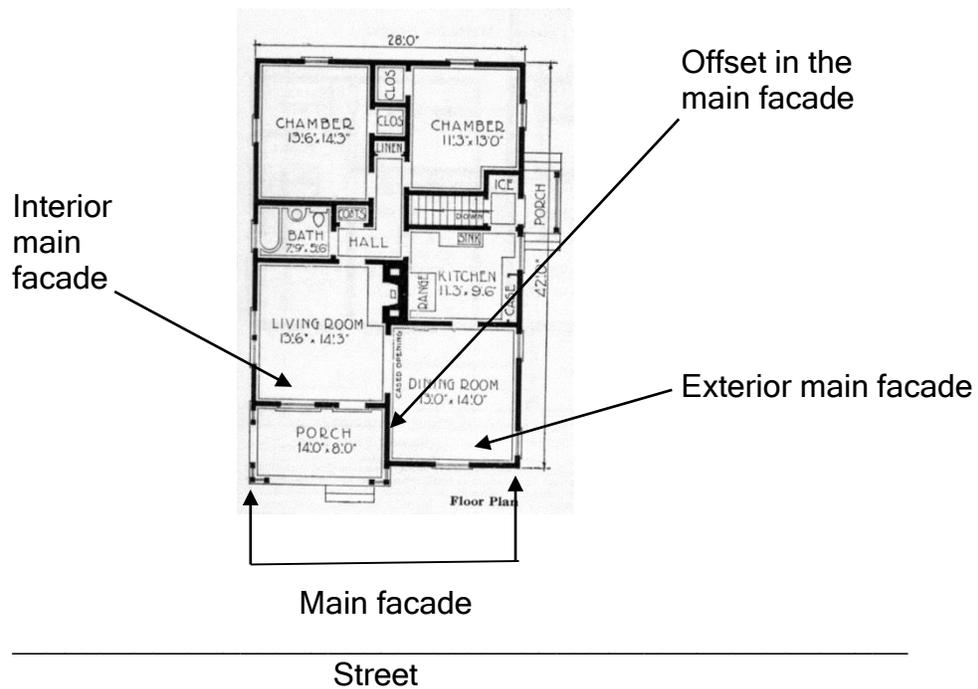


Vergeboard

Water table. A projecting ledge, molding, or string course along the bottom side of a building, designed to throw off rainwater; it usually divides the foundation of a building from the first floor.

Weatherboard siding. Siding, usually wooden, consisting of overlapping, narrow boards usually thicker at one edge; also called clapboard siding.

**ILLUSTRATION # 1**  
**MAIN FACADE**



The facade is the face or front of the building. The main facade is the building front that faces the street. The main facade includes the building between the two main outer walls. Where the main facade is divided into sections by an offset in the building, the wall of the main facade most distant from the street shall be considered the interior main facade wall. The main facade wall closest to the street shall be considered the exterior main facade wall. Required depth of main facade features such as porches shall be maintained for each portion of the main facade (including interior and exterior main facade walls) from which the feature projects (not including the offset wall). Where the building fronts on more than two streets, unless specified elsewhere to the contrary, the property owner shall pick one of the facades to be the main facade.

**ILLUSTRATION # 2**  
**ROOF AND DORMER TYPES**



Side gabled roof  
 with front gabled roof dormer



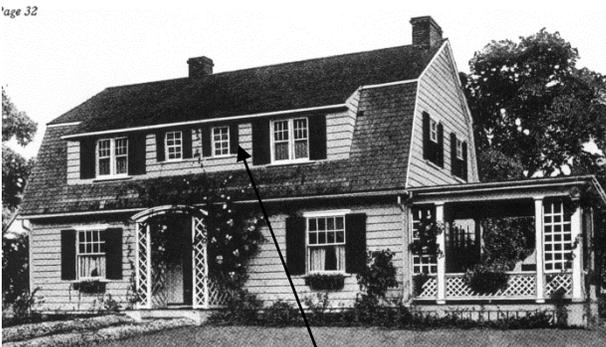
Front gabled roof  
 with hip roofed porch



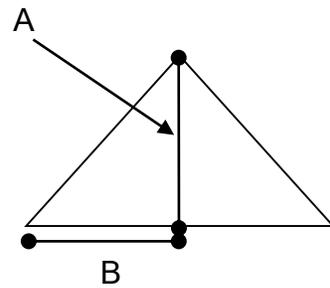
Multiple distinct low pitched gabled roofs  
 (with clipped gables/jerkinhead roof)



Hip roof  
 with hip roof dormer

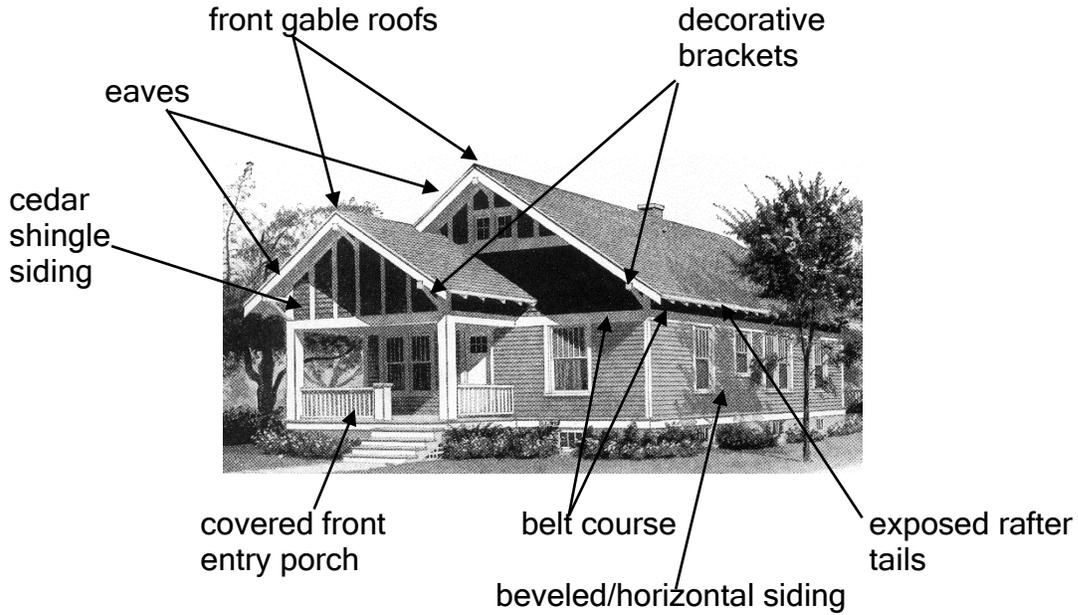


Gambrel roof  
 with shed roof dormer

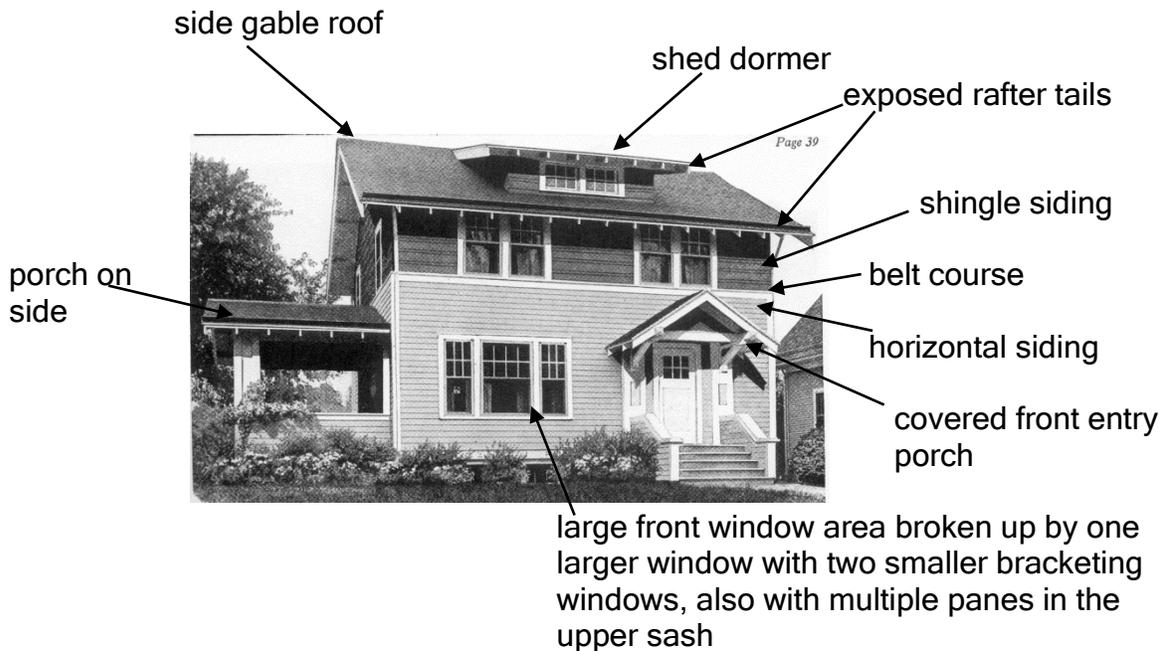


Roof slope is measured by  
 ratio from vertical (A) to  
 horizontal (B).

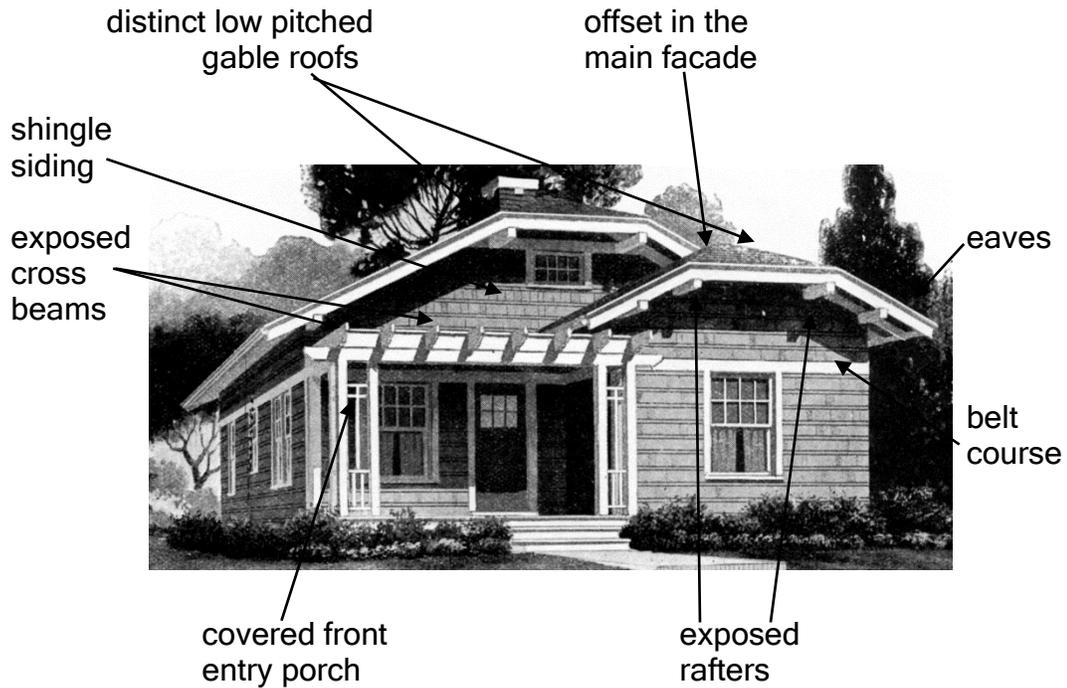
**ILLUSTRATION # 3**  
**VARIOUS EXAMPLES OF FEATURES**



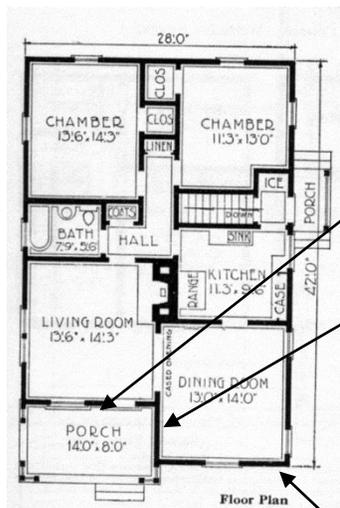
The house above illustrates a main gable roof with eaves and with a distinct gable roof above the front entry porch located on the main facade of the building. The belt course (white line that wraps around the house at the top of the windows) separates the contrasting siding with the beveled siding below and the cedar shingle siding above. The exposed rafter tails (the ends of the rafters under the eaves) and the decorative brackets are visible on both the main gable roof and the porch gable.



**ILLUSTRATION # 4**  
**VARIOUS EXAMPLES OF FEATURES**



The house above illustrates a low pitched main gable roof with a distinct low pitched gable roof that extends over the portion of the building that extends out adjacent to the covered front entry porch. An offset in the main facade is created with the 6 foot extension of the building. The covered entry porch is located adjacent to the extension of the main building but is set a couple of feet forward of the building wall and features a flat roof with exposed cross beams. Exposed rafters/cross beams, a belt course, and shingle siding are other decorative features.

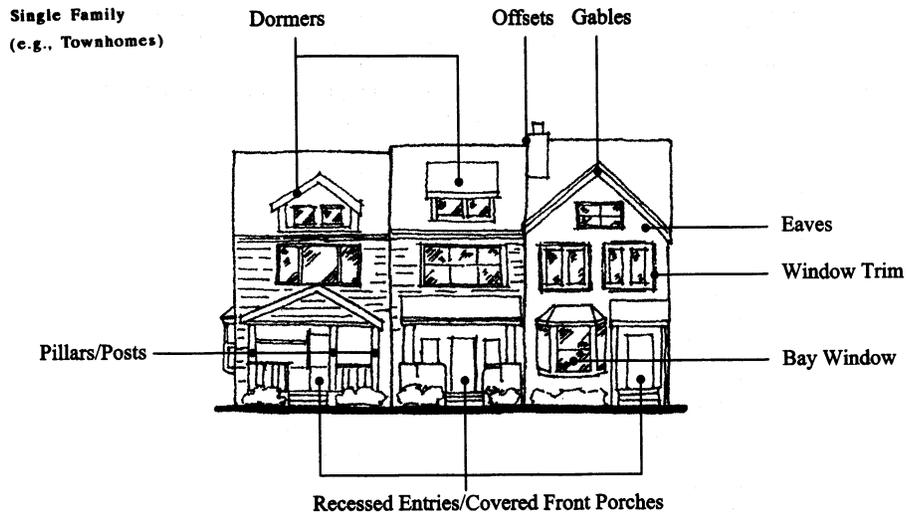


Interior main facade wall.

Offset of about 5 feet in building face and extending 14 feet. Where the building contains an offset in the main facade, the porch depth may be measured from the interior main facade wall provided the interior wall length is at least 25% of the total main facade length and the porch extends beyond the exterior main facade wall.

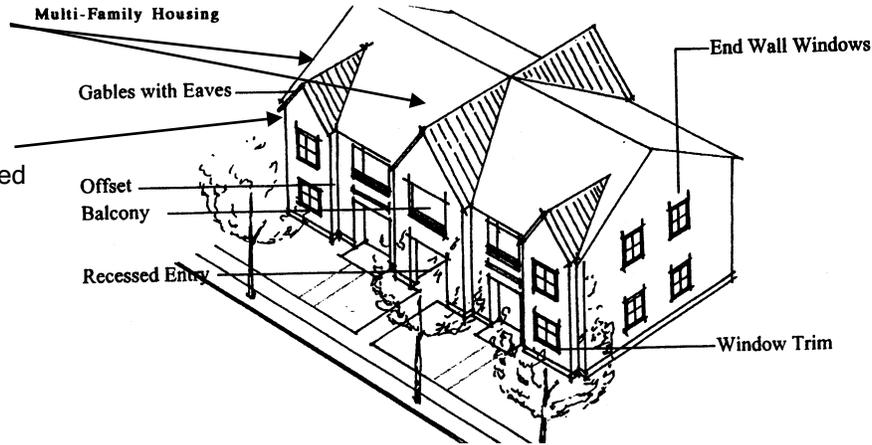
Exterior main facade wall.

## ILLUSTRATION # 5 SINGLE FAMILY (TOWNHOUSE) AND MULTIPLE FAMILY DWELLINGS

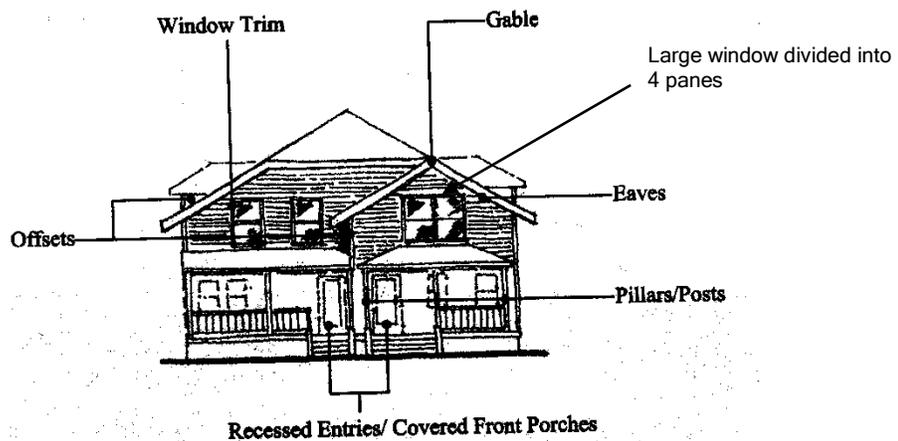


Roof width divided into increments with cross gables.

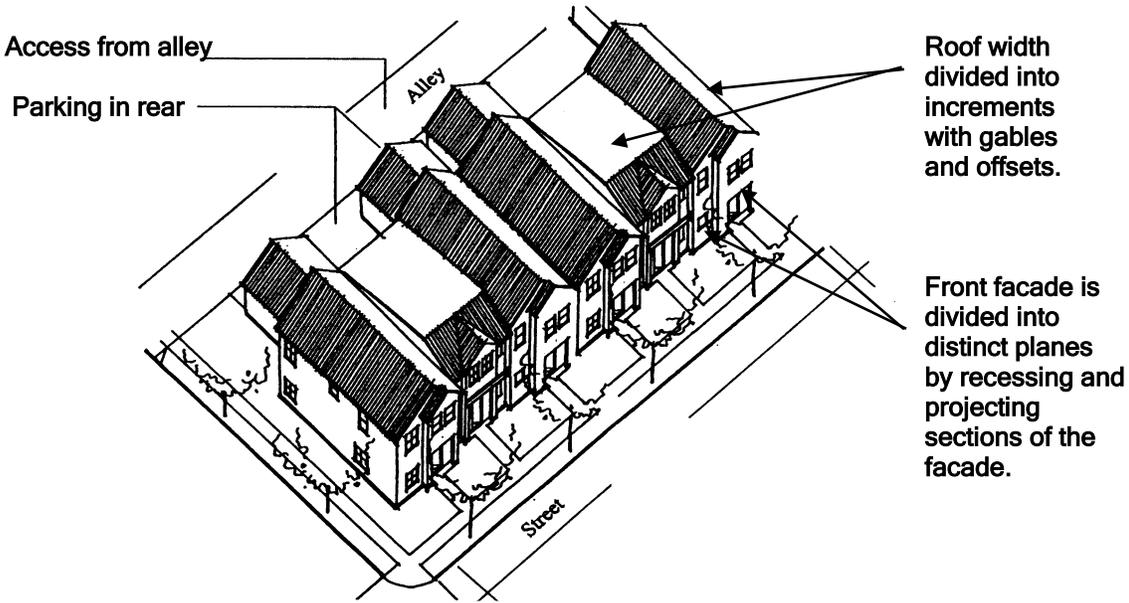
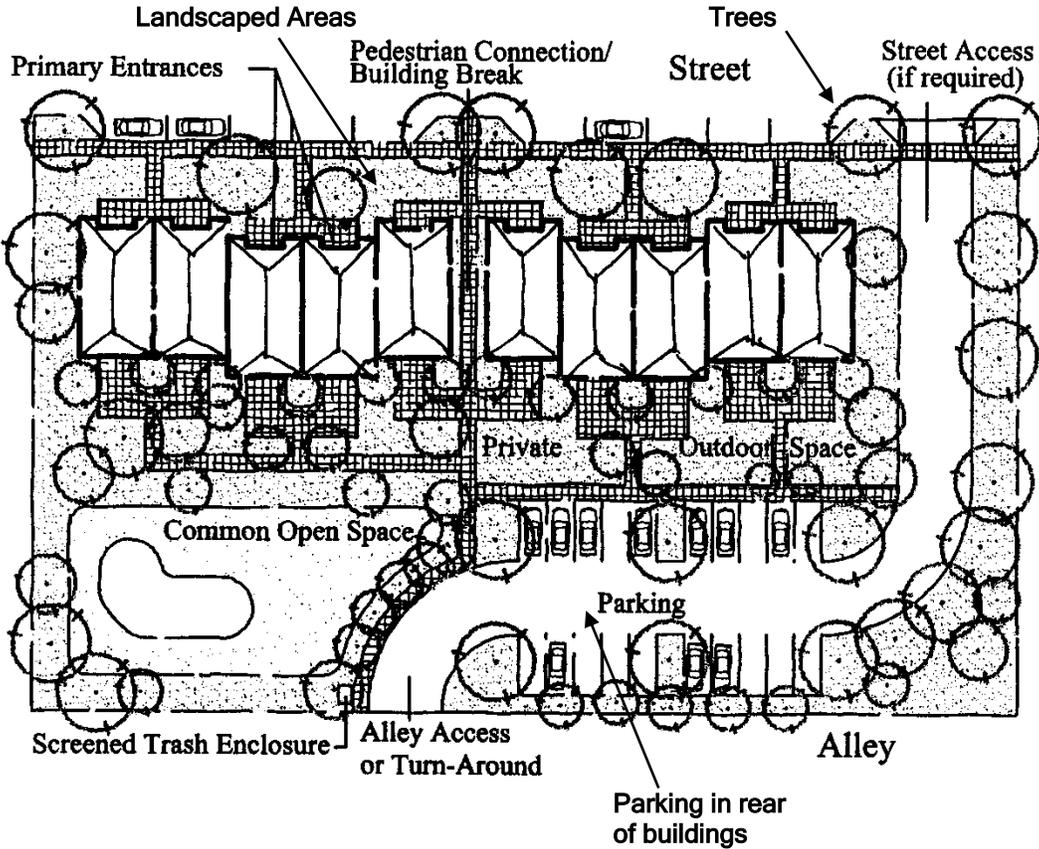
Main front facade divided into distinct planes.



Duplex / Two family dwelling



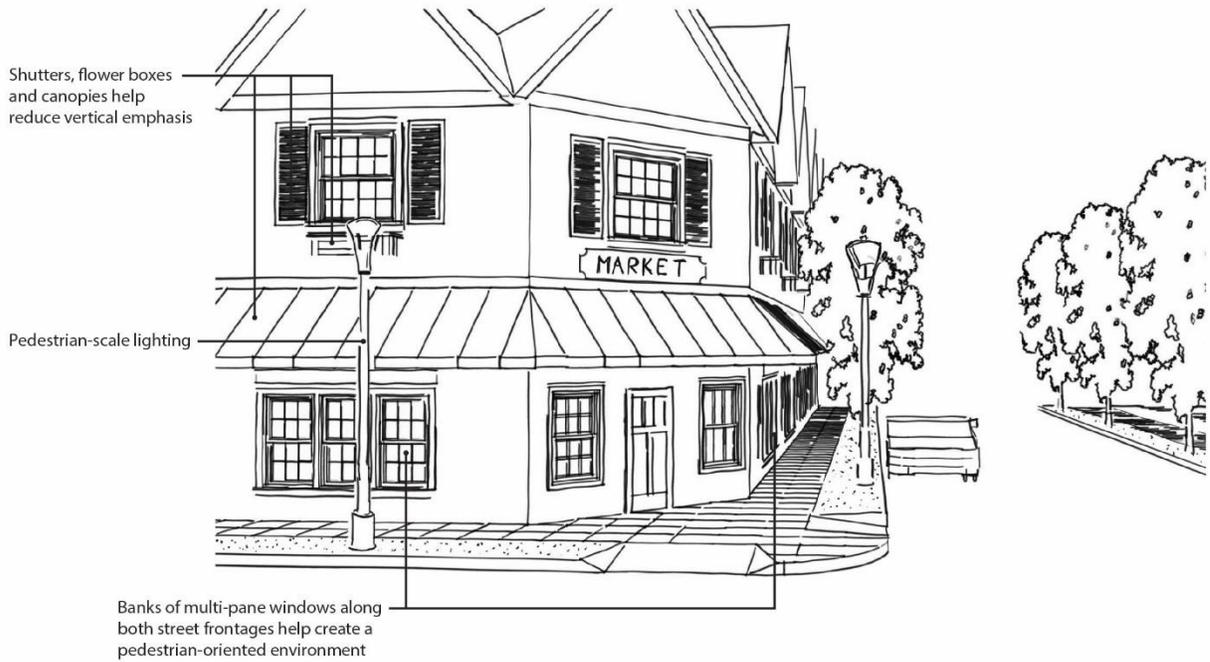
**ILLUSTRATION # 6**  
**LARGE MULTIPLE FAMILY RESIDENTIAL OR HOTEL DEVELOPMENT**



## ILLUSTRATION # 7 COMMERCIAL BUILDINGS

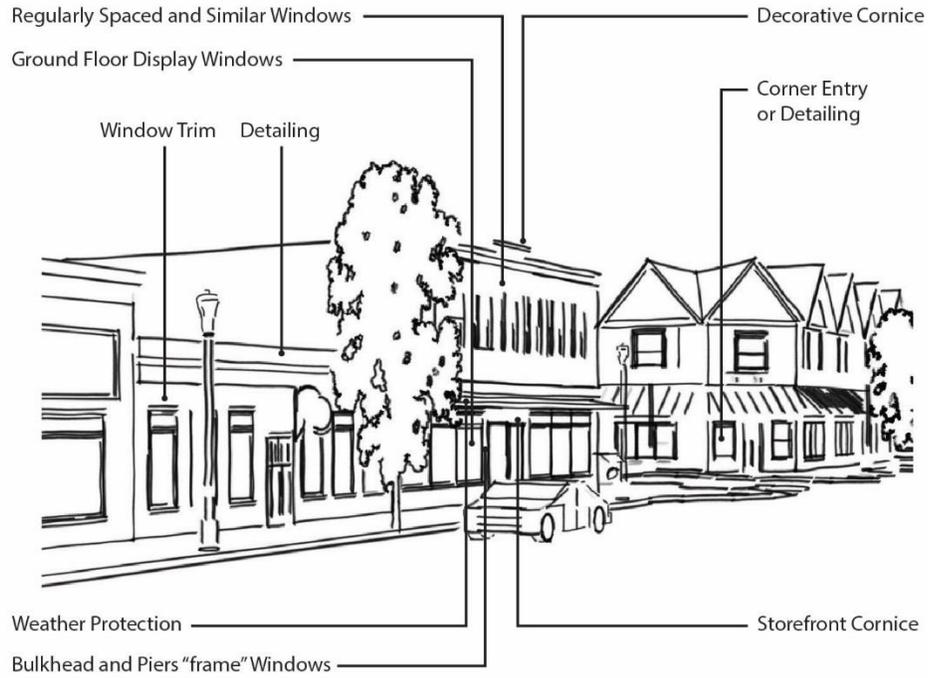


In the illustration above, banks of windows along the ground floor help create a pedestrian oriented environment. Buildings abut the property line such that no building is setback significantly from the other buildings. Buildings vary in size, shape, roof lines and design features but are architecturally compatible through the use of similar design elements such as the use and placement of a common window treatment on the second floor.



Banks of multi-pane windows along both street frontages help create a pedestrian-oriented environment.

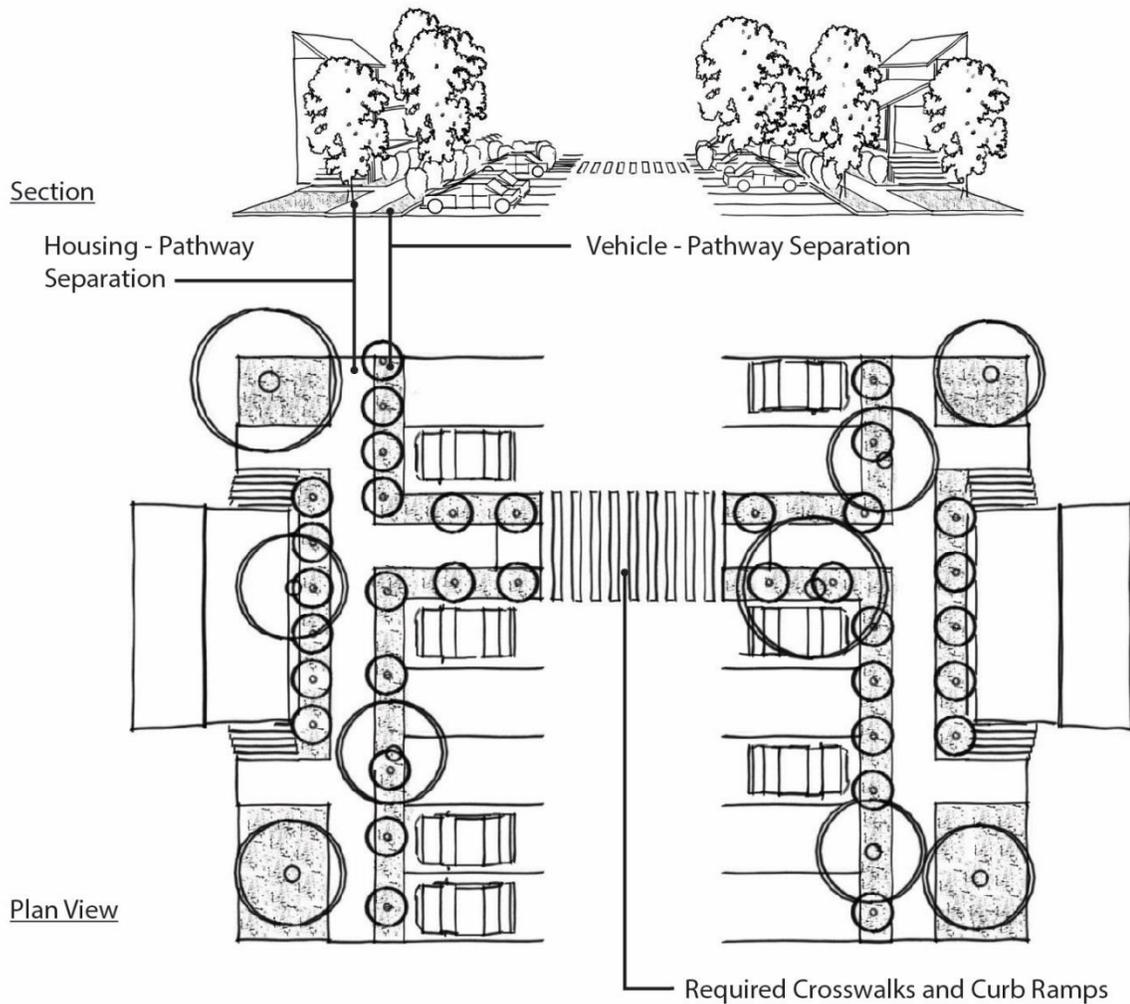
## ILLUSTRATION # 8 COMMERCIAL BUILDINGS



The intent of the Design Guidelines is to provide for variety in building shape, size, roof lines and design features - allowing architectural expression within a set of established design styles and types.



## ILLUSTRATION # 9 PARKING AND PEDESTRIAN LAYOUT

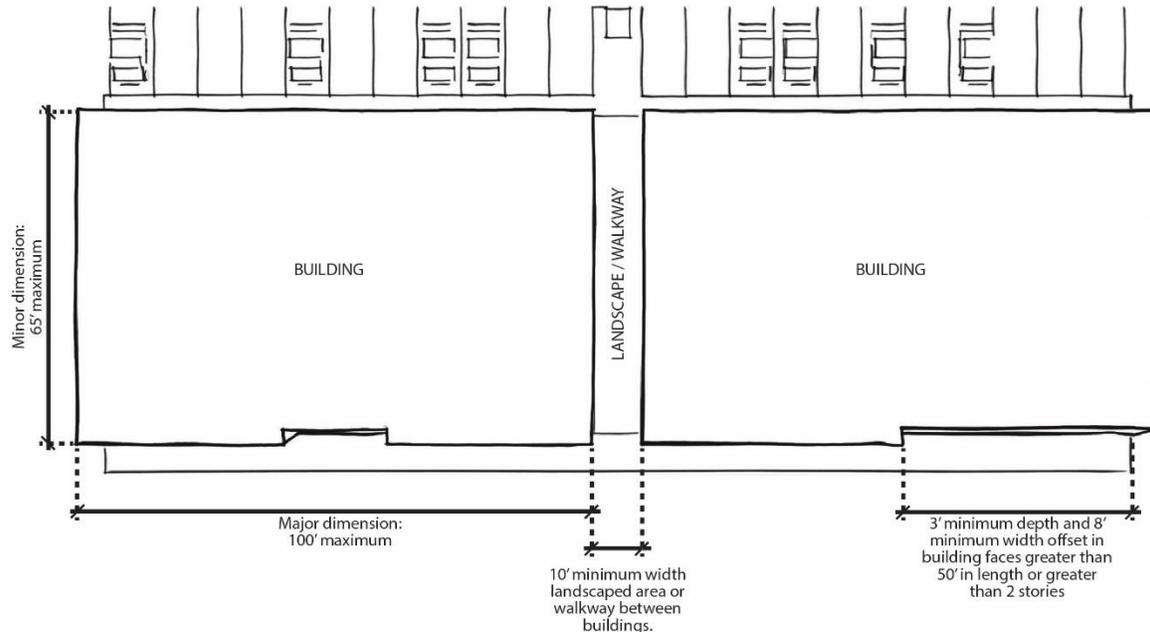


The illustration above shows an Interior parking lot. Note that the pedestrian pathways are separated from the vehicle travel areas. Where the pathway crosses the parking lot, a landscaped area extends from each side to mark the crossing areas. Additionally, the crossing area is clearly marked. Specialty pavers could also be used to mark the pedestrian crossing area. Trees provide screening for the parking lot. A short hedge (3-4 feet) around the parking lot in the landscaped area would provide additional screening and would further separate the pedestrian and vehicle areas. Breaks in the hedge along large parking lots could be provided to allow easier access to and from parked vehicles.

## ILLUSTRATION # 10 MASSING OF LARGER BUILDINGS

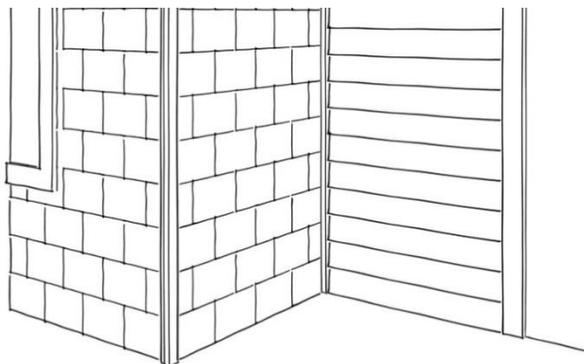
This illustration shows several massing requirements:

- Maximum frontage lengths in each direction
- Required offsets in buildings
- Separation of buildings for landscape and/or parking access/pedestrian ways

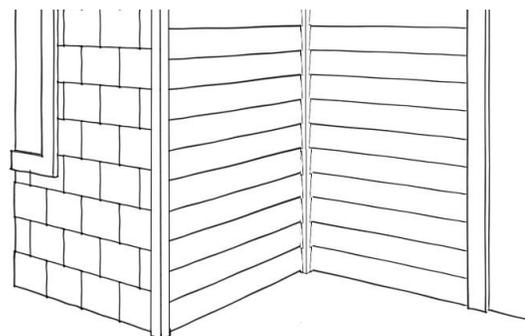


## ILLUSTRATION # 11 TRANSITION MATERIALS AT INSIDE CORNERS, RATHER THAN OUTSIDE

Where materials are changed on facades, the transition should be made at “inside” corners, as at left, rather than at “outside” corners, as at right. This design strategy is in keeping with the traditional styles found in the district, as they express volumes of rooms and bays, rather than wall planes.



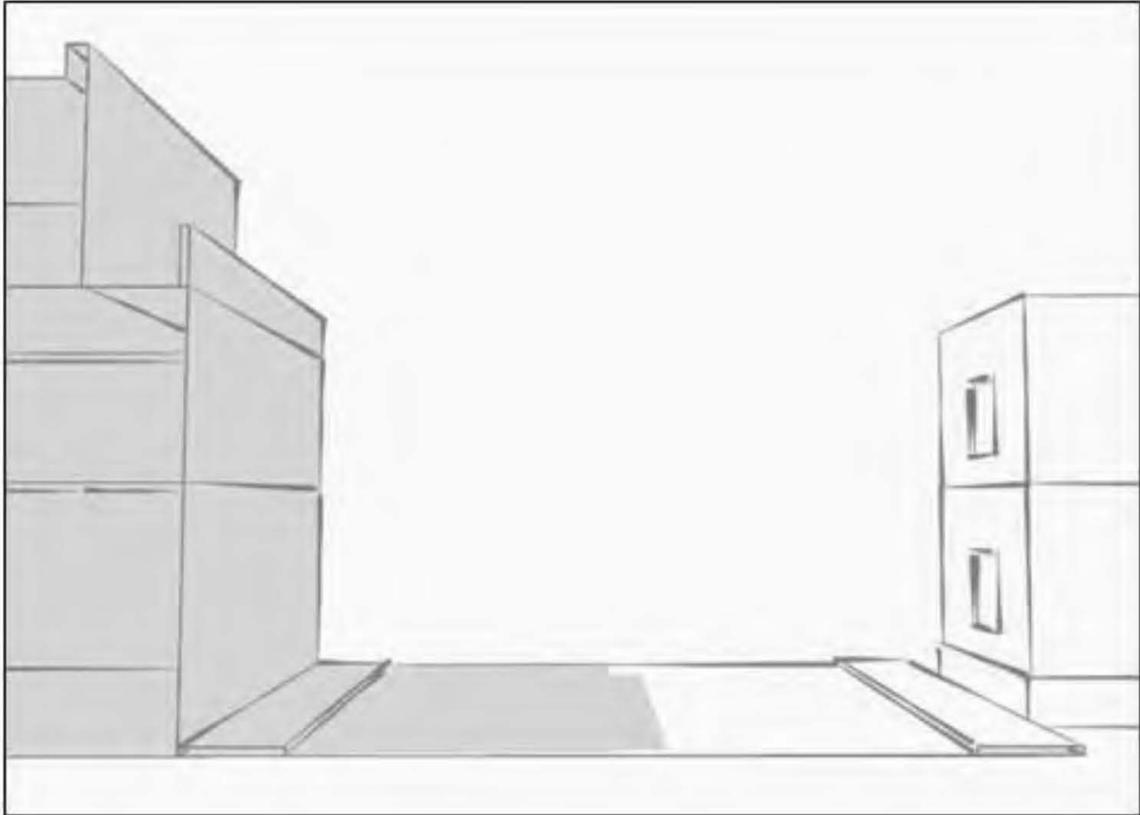
Desired Transition



Transition to Avoid

**ILLUSTRATION # 12**  
**EXAMPLES OF SOLAR SHADING STUDY**

Solar studies should show the massing of the proposed development, as well as the shading of adjacent public spaces -streets and plazas - that would be shaded at the times specified in the design standards.



TO: City Council, Planning Commission, City Manager, and  
Municipal Judge

FROM: Peggy Hawker, City Recorder/Special Projects Director

SUBJ: Annual Ethics Commission Report

DATE: February 9, 2022

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Pursuant to ORS 244, certain public officials are required to file a Statement of Economic Interest (SEI) with the Oregon Government Ethics Commission (OGEC) by April 15. You are receiving this message because you are among the folks required to file the SEI.

I have provided the OGEC with your contact information. The OGEC will e-mail the SEI form to you. You should expect to receive a communication from the OGEC in mid-March. If you do not hear by March 31, 2022, please let me know ASAP.

Public officials are required to file the SEI electronically. The OGEC has developed a free training for SEI filers at:

<https://www.oregon.gov/ogec/training/Pages/SEI-Filer-Training.aspx>.

***The SEI must be completed electronically, and submitted to the OGEC by April 15, 2022.*** Public officials who fail to file could be liable for a civil penalty of up to \$1,000 and/or suspension from performing their official duties.

Let me know if you have questions. My telephone number is 541.574.0613.